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International Court of Justice

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ERRATUM

Transcript, 12 June, Morning Session

Please note that the numbers on the last eleven pages should read from :- 11537 - 11547, and not as it appears.

H0155-0003

Official Transcript of the International Military Tribunal in the matter of The United States of America, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics against Hermann Wilhelm Goering et al, Defendants, sitting at Nurnberg, Germany, on 12 June, 1946, 1000-1700, Lord Justice Lawrence presiding.

MARSHAL: May it please the Tribunal, the report is made that Defendants Hess and Jodl are absent.

SEYSS-INQUART -- Resumed

CROSS EXAMINATION -- Continued

BY M. DEBENEST:

Q Defendant, you agree that very important stocks were sent towards Germany?

A Yes, that is quite true.

Q Concerning another means of utilization in the Netherlands in order to pillage that country economically, I would like to submit to you a document which indicates that you were not the only one to participate in this pillage and Goering and the OKW are mentioned there, too. Document S 868, which becom 1530 PS. I concerns a teletyped message which is addressed to you by the OK and which is signed Reinecke. This teletype message is dated December 5, 194 and begins as follows: "Meeting at the office of the Marshal of the German Reich on October 7, 1940, concerning the modalities of the shipping or the taking of merchandise from Holland by members of the Wehrmacht or of the serv attached to it. In agreement with the Reichsmarshal and the Reich Commissar for the occupied Netherlands territories, the dispositions now in force, up to this day, regulating the shipment and the seizure of merchandise in Holla are annulled. Members of the Wehrmacht and of the organizations attached to it." Then follows designations of these organizations as well as the authorities and members of services attached to it in Holland. "These can, within the cadre of the means at their disposal, be shipped home by the milit post, packages of a maximum weight of one kilo, and this without any limit on the number of parcels. So long as the parcels weigh more than 250 grams, th

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postage has to be paid for. The taking with oneself of merchandise on the occasion of leave or crossing the frontier is not covered by any restriction." This regulation was drawn up with your help, wasn't it?

A When you say "agreement", that is putting it a little strongly. We are not concerned here with an authority for confiscation but rather a directive for transport. These things had to be bought. They could not have been confiscated. The Reichsmarshal decreed this and I put it into force. That was the so-called "Schlepperlass", meaning that any soldier which returned from the Netherlands could bring along as much as he could carry. He could carry those things along which he had bought. I gave this to the civilian authorities in accordance with this military decree. I believe this military decree was rescinded after two years, for it was also made known to me that I should rescind this order since it was favoring the black market.

Q I have not said that it concerned requisitions. Yesterday I said to you that there had been mass requisitions and you answered that this was exact. Today I state to you and I submit this document to you in order to demonstrate to you that there were also other means of pillaging the merchandi of the Netherlands.

A But previously you did mention confiscation.

Q I spoke yesterday of it quite simply. Will you state to me what the destination of the Beauftragte Fuer den vier jahres plan, the plenipotenti for the for year plan?

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A I do not recall exactly the wording of this decree. However, I believe it has been read here. In any event, it dealt with the organizing of the entire economic means of a country in favor of the policy carried on by Germany, and in favor of the war economy, of course.

THE PRESIDENT: M. Debenest, the translation came through to me that this document would become 1530-PS. I suppose that was a mistake. It must have been.

M. DEBENEST: Excuse me. I should have said 1530-RF.

BY M. DEBENEST:

Q Who ordered the liquidation of the property of the Freemasons?

A I must admit that I really don't know that. My attention was called to this case after this property had been confiscated, but I rather assumed that this emanated from Himmler and Heydrich.

Q Good. Well, I will refresh your memory. I will submit to you Document F-805, which becomes RF-1531. It concerns a letter which comes from you, doesn't it?

A Yes.

Q It is dated March 11, 1944. Isn't it signed by you?

A That is quite correct.

Q Good. You express yourself as follows in this letter:

"Very Honored Dr. Lammers:

"I have ordered the liquidation in the Netherlands of all the property of the Freemasons. Considering that the liquidation had been undertaken by - that is to say, by an official office, and contrary to what has happened concerning the liquidation undertaken by other offices, it is to the Finance Minister of the Reich that there comes the power to decide on the thorough utilization of these properties and incomes.

"I have written a letter today to the Reich Finance Minister, and I allo myself to enclose a copy of it for you. I beg you to second my request."

You therefore did not hear of this liquidation after it had been undertaken since you yourself had undertaken it, isn't that true.

A I am still upholding my first claim. On the question as to who decreed this, I understood you to ask me who demanded this, who from the Reic

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For a fact, I did not hear about this pattern of circumstances until a few months after it had taken place. Then, through my offices, I had this liquidation carried to an end and then wrote this letter. The actual carrying through of this measure rested with me.

Q Didn't you say just now -- and I understood the translation very clearly -- that you heard of it only after it had been done? You contradict your own declaration, as I was able to note yesterday, on several occasions, only when documents are submitted to you.

A I didn't quite understand you. Are you putting a question to me now I didn't get the question.

Q I am simply making a remark.

Was this liquidation of the property of the Freemasons an important undertaking?

A Yes, certainly. I should like to say this liquidation was started from another source. That is, the property was confiscated; then I took over this action and had it carried through through my competent agencies.

Q Had you foreseen utilization of the funds which had been produced by this liquidation?

A I made the proposal that this money be given to the Party.

Q You discussed this beforehand?

A I wrote a letter as well. I believe there was an appendix to the Finance Minister which contained the proposal that this property be given to t Party.

Q Did you not threaten the people of the Netherlands with famine as a result of the railroad strike in September 1944?

A You can look upon it as a threat, but in any event I considered it a probability.

Q You asked the General Secretary to stop this strike?

THE PRESIDENT: M. Debenest, the Tribunal would like to have further investigation as to who ordered the confiscation of the Freemasons' property.

Defendant, do you know who ordered the confiscation?

THE WITNESS: Yes, I do. The confiscation was ordered by Heydrich and was carried through by the police and led into the proper channels. The

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the Plenipotentiary started with the process of liquidation and at that stage of the game I took over and transmitted it to my agencies and offices.

BY M. DEBENEST:

Q At what date was this liquidation ordered?

A In the first few months. The whole thing went on very rapidly and quickly. It was only a matter of weeks.

BY THE PRESIDENT:

Q Was any reason given for it?

A The Freemasons were declared to be enemies of the Reich. It was done according to the decree about the taking over of the fortunes of those wh were inimical to the State.

Q Was the order of Heydrich in writing?

A That I can't say. This order went to the Security Police, and the Commander in Chief of the Security Police carried it through. I rather imagine it was a teletype message. I believe that this entire action had bee planned in advance.

Q Well, do you mean that you carried it out without having any order in writing about it at all?

A I received a report from the Security Police, and it may be that it was in writing, but it might have been oral as well. I received word that this confiscation was being carried through on the order of the RSHA., and from then on I began my work.

Q What was the amount involved in the confiscation?

A I believe the total sum of the liquidation was 8 or 9 million guild

Q And then I think you said that you proposed that it should be hande over to the Party.

A Yes, I suggested that these 9 million guilders be turned over to th Party.

Q And were they?

A No. I received no decision in this matter. This property must have been retained in the Netherlands in some way.

Q You were the Reich Commissar for the Netherlands, weren't you? Wh happened to the money?

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A The money was deposited in a bank account, and perhaps Dutch bonds were bought. It was treated as a special fund, and it wasn't used.

Q But this was all in 1940, wasn't it?

A The liquidation applied up until the year 1942, and from that period on the money remained in this bank account.

Q What was the bank?

A That I can't tell you, Mr. President. But there is no doubt that the Dutch authorities can confirm this.

Q And when you said it was confiscated in the first few months, you meant in 1940, did you?

A Yes, immediately after my appointment.

THE PRESIDENT: Go on, M. Debenest.

BY M. DEBENEST:

Q Was the utilization of the funds from this liquidation the same as the utilization of the money from the liquidation of Jewish property?

A Essentially the money that we received from Jewish liquidation was compiled in Jewish institutes. The funds were not confiscated, but certain expenditures were met from them. For instance, we erected the camp Vught, and the cost of erection of this camp was met that way.

The funds received from the liquidation of the Jewish property were perhaps 400 million guilders or slightly more. However, they were not confiscated.

Q Actually, how were the funds used exactly? That is to say, was it for ends of the German government or for other ends?

A The Jewish property, first of all, was confiscated. Then, as far as possible, it was liquidated, and we called that Aryanization. The result of the Aryanization, these moneys, were taken --

Q (Interposing): Will you answer more directly and explain how this liquidation took place. Tell me about the utilization of the funds.

A These moneys were not used at all, but rather 400 million guilders should be on deposit in an institute for this purpose, some in bank notes and some in the original moneys. They should be there. Only relatively small parts were used for certain purposes. I believe the largest amount was 14

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million guilders which was used for the erection of the camp of Vught.

I called the attention of the Reich Finance Minister --

Q Excuse me. I asked you a question. Were the funds from this liquidation used for ends of the Reich? Yes or no?

A No, unless you call the erection of the camp of Vught a use of the Reich, but the funds were used for the purpose because Camp Vught was to be a Jewish collection camp.

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Q. So you consider that the setting up of the Vught Camp was in the interest of the Netherlands ?

A. I can say that with certainty. The cost of the Camp Vught, as far as I was informed, was met from this property, I believe 14,000,000 gilders were involved. This camp was to be a Jewish collection center, but later Himmler transformed this into a concentration camp.

Q. That is just an opinion and the Tribunal will decide about it. But as for the property of the Free Masons, what was done with the monies which came from this liquidation, how was it utilized ? Did it go to the Reich, or did it go towards the furthering of the construction of concentration camps in the Netherlands ?

A. Neither the one or the other.

THE PRESIDENT: He said already, or I thought he said, that it was on deposit at some unknown bank, and that there was about 400,000,000 which came from the Jews.

WITNESS: Mr. President, I just recalled the name of the bank. It is in the Verwaltungs und Rentungs Anstalt in Bellock.

BY M. DEBENEST:

Q. Well, I am now going to submit to you a document, which is a letter, No. F-864, and is now RF-1532. This document states exactly the destination which you have been discussing concerning the goods which have thus been liquidated. First, you indicate, at the beginning of the letter, that the total resulting from the liquidation amounted, as you say, to 6,134,662 florins up to that date, and you indicate that this sum was placed in the Reichsstiftung for the Netherlands. This is an organization, a German organization, and not a Netherlands organization as far as I understand. You state, moreover, how different sums were to be distributed.

THE PRESIDENT: Can you tell me the details of where it is. He says it is there in the bank.

M. DEBENEST: Exactly, Mr. President. I would like only to read the few lines at the beginning where he states exactly the purposes of the final distribution of these monies.

BY M. DEBENEST:

Q. "I suppose that it was your intention that the results of the sale of the property of the Masonic organizations should be employed in the Netherlands themselves for certain specific ends. And you had the same ends, moreover, for the fortunes of Jewish origination. In our discussion on this last point, an agreement was made between us concerning these fortunes."

Consequently, your intention was to use the sums in the sa manner as the Jewish fortunes, wasn't it ?

A. You cannot say that at all. I didn't say that. The Reich Minister of Finance wanted to dispose of the Jewish fortune, and I called his attention to the fact that it had not been called i and I told him not to dispense with the drawing in of this money but to see what the course of events would be.

Q. Were you not proposing here, that they should be utilized to the same ends ?

A. I suggested to him to use these monies for certain purpose in the Netherlands, and not to take this money into the Reich, but to leave it in the Netherlands, but the use was left completely open. He himself wasn't to send it to the Reich.

THE PRESIDENT: M. Debenest, I think you can pass on.

BY M. DEBENEST:

Q. I thought exactly that we could and that the Tribunal would appreciate it.

Let's come back to the matter of this railroad strike. Did you not ask the Secretary General to stop this strike ?

A. Yes, indeed.

Q. Did you not set an embargo on most of the transports and operations ?

A. Certainly.

Q. Yes, it was you, wasn't it ?

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A. Yes, I testified to that yesterday.

Q. Consequently, you know very well, that at that time what th situation was concerning the food in the Netherlands, and the consequences which would inevitably result from the decision which you took would be of extreme gravity ?

A. Not in reality, for in reality, it had already been distributed by the Wehrmacht and I was concerned about finding a mode of defending, and since it seemed very urgent that the needs of the Wehrmacht be made known, to have traffic reinstated. If the railroad strike had not taken place, I would have succeeded with the Wehrmacht in not carrying this through. The shipping traffic would have been left undisturbed.

Q. But we are not discussing the Wehrmacht. You know very well that the moment you placed this embargo on shipping, you knew perfectly well that it was the time when they were transporting food stuffs for the winter to the Netherlands from the West ?

A. Yes, but at the moment in which I decreed the embargo, ther was actually no more traffic, and the few ships which brought in food were confiscated by the Wehrmacht complete with the food stuffs.

Q. Then your decision was completely useless ?

A. No, for through my decision, I prevailed upon the Wehrmacht that they restrict themselves to a shorter period of time, and they promised me that the ships which I wanted would be undisturbed by them.

Q. How long did this embargo last ?

A. I believe between the 15th and 20th of October. The chief of my traffic department had the order to rescind the order. In practice, it took weeks before the Dutch traffic organization broke down.

Q. Until what date, approximately ?

A. It might have lasted until the middle of November.

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Q. Was not that the period in the course of which the heaviest traffic existed ?

A. That's quite correct. In November and December, they could have brought so much food stuffs to Holland, and in September, I was of the same conviction that in November and December, the shipping facilities would be at my disposal.

Q. And actually, did you obtain it ?

A. Unfortunately no. For the breaking down of the traffic and the authorities in connection with the other war measures was not at my disposal.

Q. You know, however, quite clearly, that the decision which you were taking was heavy with consequences ?

A. In September, this thing was not so serious, because with full consideration for the railroad strike, we needed these facilities, and as far as the Reich interests were concerned, there is to be no grave accusation against me by the German people to say that I did not do everything possible for the furthering of this fight.

THE PRESIDENT: You dealt with the subject yesterday, didn't you ?

M. DEBENEST: I don't think I did,

THE PRESIDENT: Well, the embargo on shipping surely was gone into yesterday.

M. DEBENEST: Mr. President, I think I spoke yesterday only of the requisitions of the SS, and others, and I only asked a couple of questions of an economic nature and I do not believe I touched upon this subject. If I did, I apologize to the Tribunal. I am almost finished with it.

BY M. DEBENEST:

Q. What was the position of the Netherlands Bank on your arrival in 1940 ?

A. The Netherlands bank and the Bank of Issue was, I believe formerly on the basis of a private bank. The President was Mr. Tripp, and the Directorate had a certain influence for it was a bank of issue.

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Q. And could you please give briefly, indications of it ?

A. Then they would not contain the complete truth.

Q. Didn't the amount in cash equal the amount of notes ?

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A I assume, on the basis of the gold on hand, that the gold coverage was higher than the notes issued. The Dutch Bank had more gold and more gold backing than it had notes issued.

Q And what was the position at the time of the German capitulation?

A There were several billions--it was rather a high figure--in paper money that was in circulation, and perhaps twenty-three million in gold.

Q But, above all, it had Reichsmarks, didn't it?

A No, I said 23 million guilders in gold. The rest of the coverage might have been credits from the Reich.

Q Did you order the abolition of the "Valuta Frontier"? Will you answer?

A I don't know what you mean. Yes.

Q Were you absolutely in agreement with the necessity of abolishing this "Valuta Frontier"?

A The proposal originated in my office. I took it over. Mr. Trip protested. I contended that that proposal be returned to Berlin. Then in Berlin the Reichsmarshal was for it. Funk was against it, and then the proposal which I had made, and which had been approved by the Reichsmarshal was carried through by me.

Q But personally you agreed with it?

THE PRESIDENT: What do you mean, exactly, by the "Valuta Frontier" that you are dealing with now? We merely want to understand what you are talking about,

M. DEBENEST: I mean the free circulation of German currency in Holland--the abolition of a frontier betweem Germany and Holland as far as German currency was concerned.

BY M. DEBENEST:

Q Did not Holland also have to pay important sums in the form of so-called voluntary contributions, amongst others, to the war against Bolshevism?

A I believe I have already given a complete picture of this case. The Reich demanded during a certain period of time, in order to defray the cost of occupation, 50 million marks for the preparation of the defense of Holland, in Holland. We called this a voluntary contribution. We applied that term for political reasons, but, in reality, it was a demand of the

Reich which would have had to be paid one way or another, and I would not say that for any Dutchman this was a voluntary contribution.

Q You agreed to these measures, did you not?

A Yes.

Q What were the economic and financial consequences of all these measures?

A The financial consequences were a greatly increased circulation of bank notes, large accounts which remained the same in the Reich as in all occupied countries. We applied one system in France, another in the Netherlands, and, in view of the collapse of the Reich, the financial consequences were the same in all the occupied countries. If the Reich had not lost the war, Holland would have had a claim of more than four and a half million guilders against Germany.

Q Good. Will you then look at document 997-PS, which you had yesterday in your hand, and see what you thought of these measures. It is page 14 of the document in French and page 12 of the German text.

M. DEBENEST: It is the big Seyss-Inquart report, RF-122.

THE PRESIDENT: 997?

M. DEBENEST: 997-PS, page 14.

BY M. DEBENEST:

Q You write there--and I am reading from the sixth line--

"This regulation goes far beyond all those which have been established thus far with the political economies of neighboring countries, including the Protectorate."

Page 12 of the German text, 14 of the French.

"It actually represents the first step toward a currency union.

"In consideration of the significance of the agreement, which touches upon the independence of the Dutch State--"

And then you add:

"--it is of special weight that the president of the Bank, Trip, who is unusually well known in western banking and financial circles, signed this agreement of his own free will in the above sense."

That was your impression, was it not?

A That is true, but I must admit, too, that the opinion I held at

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that time was wrong. Otherwise I would incriminate Mr. Trip too heavily.

The thing that is set down here is not

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the actual fact which existed later as to the breaking down of the barriers between moneys. This only regulated the taking of the bank notes of both banks, and I should like to refer to those facts, those statements which I made about Mr. Trip. I believe that this agreement was in accord with international law. That is my opinion.

Q Did you not state that it "touched upon the independence" of the country?

A That was an exaggerated optimism in the picture as I drew it.

Q The Tribunal will appreciate what you stated.

You considered, did you not, the suppression of custums barriers?

A I did not understand you.

Q You do not wait until you have had the translation. How can you expect to understand?

Did you not consider the suppression of the custums barriers?

A Yes.

Q Were there not in the Netherlands certain agencies which were in charge of the looting of art objects?

A I cannot call it plundering, but the administration and care of them, and so forth.

Q That is an impression. Yet there were several agencies?

A Yes, indeed.

Q You knew particularly well the agency of Dr. Muehlmann?

A Yes.

Q Who summoned him to the Netherlands?

A I sent Muehlmann ahead of me to the Netherlands so that he could set up an office for us.

Q But it was only to instal your offices?

A At that time, only to set up an office.

Q But later --

A Then Muehlmann departed, and after sometime he returned as an officer of the Four Year Plan so that he could secure art objects and safeguard them It was similar to what took place in Poland.

Q What do you understand by "The securing of art objects"?

A In practice -- I do not want to talk a lot -- but in practice, he had to determine whether in the confiscated fortunes there were any art

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objects, and then he had the task of taking these art objects and announcing them to various Reich offices.

Q Only to report them and announce them?

A Yes, and the purchasing was taken care of by these various offices themselves. I assume -- I know -- that he concerned himself with private art traffic as well, as an intermediary.

Q Did you also obtain some pictures for yourself by this means?

A Yes. Not for myself, but for the objectives that I outlined yesterday.

Q Yes. You also stated yesterday that you had placed in security a large number of works of art; that is to say, pictures amongst other things. What was your purpose in putting them in security?

A Many objects of art I secured when the decree about confiscation of enemy and Jewish property came out, and the treasures which, as I mentioned, were to be given to the museum in Vienna. I brought back three or four.

Q Defendant, I asked you for what purpose you placed these art objects in safety.

A The confiscation of Jewish and enemy fortunes had, as its primary purpose, sequestration, but in time it became clear that these objects of art were to be brought from the Reich. The three or four pictures which I purchased I bought with the immediate purpose of giving them to certain Reich institutions, the Kunsthistorisches Museum in Vienna, for instance.

Q But there was not only Jewish property there.

A I said enemy and hostile property as well, but that was not enemy property in general but only if a special hostile attitude against the Reich could be proved, and then that was confiscated as well.

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Q This is what you wrote in a document which has already been submitted to the Tribunal, and which you certainly know. It is document F-824, submitted under the number 1344-RF. You know that document, do you not? It is a letter which came from you, and it is addressed to Dr. Lammers. This letter concerns the purchase of pictures, that is, purchases which were made for the Fuehrer. In paragraph 3 of this document, in the French text, you write as follows:

"From the list which has been submitted to me I deduce that in this manner a fairly considerable number of pictures of value has been placed in security, pictures which the Fuehrer has been wise enough to purchase at prices which, according to the investigation which I have made in the country, must be considered extremely low."

Then you add that Rembradnt's self-portrait has been found again, thanks to Muehlmann.

Consequently, the placing in security of works of art was clearly a means of allowing the Reich authorities to take them into Germany; isn't that true?

A There is no doubt about that. Regarding the Rembrandt picture, I should like to say that it had come into Holland illegally, and therefore it was confiscated.

Q And it was taken to Germany along regular channels?

A I believe that in the case of the Rembrandt picture there was no doubt about that, because in that case a German regulation was infringed upon.

Q In addition to paintings, you also procured for yourself a large number of works of art and valuables, such as diamonds, precious stones, and so on?

A I know nothing about that.

Q You know nothing about this? Do you know that you have a housein Vienna at Untergasse number 3?

A No, that is Iglauer Strasse 15. However, that may be true, yes.

Q Had you not deposited there a certain number of works of art which have come from the Netherlands?

A I know nothing about that.

Q So you know nothing about it? Well, I will pass on to something else. Who ordered the confiscation of the property of the Royal House?

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A I personally.

Q Therefore you had the initiative in this matter?

A Well, not only was I the instigator, but I decided to do that and I carried the decision through.

Q Did you only execute it?

A Yes, I was the one who did the executing of that too.

Q I did not ask if you were also; I asked quite clearly, did you only execute this order?

A No, I stated this yesterday, and I pictured the situation clearly, giving the reasons why I decided to confiscate the Royal fortune. I did carry through the confiscation.

Q Good. You suggested it was the result of a speech made by the Queen. Isn't that what you stated yesterday?

A Yes.

Q I will allow you to take cognizance of document F-828, which I submit under number 1533-RF. This document is a letter from Reichsleiter Bormann to Reichsminister Dr. Lammers of July 3, 1941. At the beginning of the letter Bormann discusses the speech of the Queen of Holland, and in the last paragraph, which is the one which is important to me, he writes:

"The Fuehrer has therefore give the permission to confiscate the properties of the Netherlands Royal House, a permission which the Reich Commissar had already requested from him at an anterior date."

Do you still think that it was in connection with the speech made by the Queen?

A I beg your pardon, but nothing came through on my channel. There seems to be a technidal disturbance.

Q Certainly, but you have the document in your hand.

A Yes. I know what we are concerned with here.

Q Certainly you know it.

A The memory of this fails me completely, that I allegedly made a proposal about that at a prior time. I really can't remember. Perhaps I discussed the problem as to whether this fortune was to be confiscated or not, but the only thing I do remember is my suggestion at the moment when this speech was made. After all, that wasn't the first speech made by the Queen of the Netherlands.

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She had spoken to this same effect and along these same lines previously.

Q That is an explanation, and the Tribunal will appreciate its value.

Now, as to the looting of the Netherlands and the attempt to Nazify and Germanize that country -- were these not the actions of the Civil Government, the head of which you were?

A Yes and no. It is completely obvious to me that the Dutch people considered our demeanor and

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treatment as a plundering and pillaging, but actually it was not so, and I never Germanized the Netherlands at all.

Q Well, will you take document 997-PS, page 26 of the French text and page 22 of the German text? I refer to the section of your report entitled "Remarks", at page 26 in the French text. I read there the remarks which you made concerning your own activities. This is at page 22 of the German text.

First, the item is dated 19 July 1940.

Second, you say that the administration is actually, in a sufficient and always progressive manner, under the direction and control of the German authorities.

Third, you say: "The national economy and communications have been set in motion again and adapted to a state of war. We have begun to achieve the vast transportation of the continental economy. The stocks of raw materials of the country have been placed at the disposal of the Reich War Economy. The financial resources" -- this is in 1940 -- "are being actively studied and placed under the control and direction of the Reich, all this on the basis of a broad cooperation of the Netherlanders."

Isn't that exactly what you wrote?

A Yes. I believe that any occupation power would agree with point 2.

Q That is an opinion, whose value the Tribunal will appreciate.

I would like now to return briefly to the Jewish question. You stated yesterday that you had protested against the deportation of a thousand Jews to Mauthausen or Buchenwald, and that there had been no more deportations to these camps after your protest. But why did you not protest against the deportation to Auschwitz? Did you think that this camp was very different from the other two?

A Naturally, because Mauthausen and Buchenwald were concentration camps, but, on the other hand, I understood that Auschwitz was a collection camp at which the Jews were to remain until such time as the war would be decided, or some other decision would be made.

Q Before coming to the Netherlands you had been the assistant to the Governor General of Poland, had you not?

A Not adjutant, deputy.

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Q That is even better. Consequently you had heard this camp discussed over there, had you not?

A At that time Auschwitz did not even exist.

Q But did you not know that the ashes of thousands of Jews, who had been sent to Buchenwald or Mauthausen, were sent back to their families against the payment of 75 florins? This happened in 1941. Did that not prevent you, later, from taking other measures against the Jews, measures which necessarily led to their being deported?

A In my opinion this measure, first of all, caused an evacuation, which is something completely different than a deportation or a transporting into a concentration camp.

Q But you knew the fate of those Jews who had been transported to those camps?

A Most people did not know of their fate as it is know to us today, and I testified yesterday as to my misgivings.

Q That is an opinion. You spoke yesterday of reprisals taken against the newspaper in the Hague --

(Interposing)

A In the Hague? Please?

Q Yes, in the Hague, and you stated --

THE PRESIDENT (Interposing): Is this something you cross-examined about yesterday?

M. DEBENEST: Mr. President, these are questions which were handed to me this morning as a result of declarations made yesterday by the defendant.

THE PRESIDENT: The Tribunal thinks you should not go over this matter again.

M. DEBENEST: Then I have finished with all of the questions concerning hostages. There is one question which I would like to ask, if the Tribunal permits; it is a question concerning the flooding. All the other questions I had in mind concern hostages, and if the Tribunal so wishes, I will not ask them. However, may I allow myself to ask a question concerning the flooding?

THE PRESIDENT: The Tribunal thinks that you went over the flooding yesterday. I don't know.

M. DEBENEST: Then I have finished.

THE PRESIDENT: The Tribunal will adjourn.
(A recess was taken.)

THE PRESIDENT: The Tribunal will adjourn this afternoon at 4,45 in order to sit in a closed session.

MR. DODD: Mr. President, I have noticed that counsel for the defendant Kaltenbrunner is here this morning. I understood there was to be some cross-examination of this defendant by counsel for Kaltenbrunner, and I thought we might save time if he preceded us and finished his cross-examination.

THE PRESIDENT: Yes.

DR. KAUFMANN (counsel for defendant Kaltenbrunner) : Mr. President, I beg to apologize for drawing upon the Tribunal's favor yesterday by not being here. But I had a very special reason. The reason was stronger than my will. I have just recovered from a serious illness, if I may state this now, and I did not feel at all well, although I was firmly decided to appear before this Tribunal.

I had prepared everything, you see. I beg to be allowed to apologize to you.

THE PRESIDENT: Certainly, Dr. Kaufmann; the Tribunal accepts your explanation.

DR. KAUFMANN: Thank you very much.

BY DR. KAUFMANN:

Q. Mr. Witness, when did you meet the defendant Kaltenbrunner?

A. It was either in 1935 or at the beginning of 1936 that I met the defendant Kaltenbrunner, in connection with relief work for national socialist families who were in need.

Q. What part did Kaltenbrunner play before the Anschluss in March of 1938 in Austria ? Was he a member of the radical element or was he conservative ?

A. At the time, I was told that Kaltenbrunner was close to the SS, but he was not the leader of the legal SS. That was an engineer from Syria.

Was it Leopold ? Was it the engineer named Leopold ?

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A. I talked repeatedly to Zernatto about Kaltenbrunner when he was called into the police on the 11th of July, in the party; that is to say that it was due to his influence that illegal elements were kept away in July, 1934.

Q. And then Kaltenbrunner became Undersecretary of State in Austria ? Was the suggestion for his nomination as Undersecretary of State made by Austrians, or did it come from Himmler and Hitler, or the defendant Goering ?

A. As far as I know, it was only made by Austrians. I myself did not have any suggestion from the Reich regarding my own ministry, for instance. The party in Austria drew my attention to Kaltenbrunner because we wanted to have a man in the police administration.

Q. What were his tasks, in practice, when he was Undersecretary of State ?

A. I think that as Undersecretary of State, he did nothing at all. After Skubl retired, the president of the country nominated him as Secretary of State. In that capacity, he had administrative and economic functions. He could not intervene in the executive, for instance, If I wished for a man to be relieved from custody, then Kaltenbrunner would have to get in touch with the commander of the Security Police; and if he in turn said no, then he would have to go to Heydrich.

Q. Now, it has been ascertained that in 1943 Kaltenbrunner became chief of the RSHA. He has testified here that he repeatedly tried not to accept that post. Can you tell me anything about that ?

A. I only know that at the end of November or the beginning of December, 1942, I was at the headquarters. On that occasion, I also visited the field headquarters of Himmler. And one of the Adjutants, I think, Wolff, told me that the Reichsfuehrer wanted to have Kaltenbrunner for the RSHA. But Kaltenbrunner was objecting, in that he was now going to be ordered to appear at police headquarters for four weeks, where he would undergo suitable treatments so that he would take over the post.

Q. Have you any clues of the fact that the actual reason for the appointment of Kaltenbrunner as chief of the RSHA was that he should run the political and military intelligence service, organize it, and lead it ?

A. I have certain clues to the effect that he did not have control of security police matters to the same extent as Heydrich I have definite facts regarding his intelligence work. In Heydrich's time, the commander of my security police only talked about Heydrich when he wished to get a decision from Berlin. When Kaltenbrunner came into office, I no longer remember his mentioning Kaltenbrunner but talking about the RSHA, and sometimes mentioning Mueller's name. I myself, as far as I can remember only discussed two security police matters with Kaltenbrunner. One was the case of Dr. Schuschnigg's remaining, and Dr. Kaltenbrunner has already told you about that. The second time, a relative of mine was to be taken to a concentration camp, and I went to Kaltenbrunner because he was the only man I knew in the RSHA and also because I assumed he had some say there.

I know nothing about the dividing line drawn between the various functions. At that time, Kaltenbrunner telephoned Mueller and he talked in such a manner as a superior would not talk to a subordinate official. I have positive evidence for his activities because since 1944 I was working together closely with Kaltenbrunner in that respect. I placed at his disposal foreign currency for his foreign intelligence service. At least, I obtained it for him from the departments concerned, all of which was done in agreement with the department in the Reich which was concerned about this.

Q. Just now, you have mentioned Mueller. You mean Gestapo Chief Mueller ?

A. Yes.

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Q. Did you have the impression that this man had the authority in his hands regarding the Security Police functions?

A I could only say that I know that in the course of that telephone call Kaltenbrunner said to Mueller: "How are you going to solve the case"?

Q. Then you had military and political reports from Kaltenbrunner's hands, is that true?

A Yes, repeatedly. Those were the very secret reports which were only issued in four copies.

Q. Was that for Kaltenbrunner's nomination?

A No. The support for Kaltenbrunner only started at the end of '43 or '44, if I remember rightly.

Q. What was the difference between those reports and the reports usually compiled by Canaris?

A Canaris' reports I don't know, or I only know them partly. I know those from the former RSHA.

Q. Is it true that the reports made by Kaltenbrunner had particularly keen and open criticism with regards to all public measures and that they distinguished themselves through that?

A Yes, and most of all, Kaltenbrunner's reports were objective. They were not prepared reports serving purposes.

Q. To what extent did you receive these reports?

A I think that such a report would have forty to sixty pages, sometimes more, and it probably appeared every three to four weeks as far as I know; but then there must have been special reports as well.

Q. Do you know whether these special reports were addressed to military sources or did they -- the ones you have just mentioned -- contain military descriptions of the situation?

A The reports I am mentioning were predominantly political reports and they were addressed to the Fuehrer. In those reports, I remember there having been a particularly severe attitude of the Reich toward the Poles and towards the Catholic Church, and they were written on stationery with the RSHA heading, which appeared to me to be quite an impossible state of affairs.

H0155 - 0029

Q. You are just mentioning two criticisms. Can you perhaps tell me, what were the contents of that criticism which referred to the two subjects which you have just mentioned, those two matters of public life?

A. With regards to the Poles, it was quite clearly demanded that Poland should once again be given autonomy, an independent state of administration, or at least they were promised it; and with reference to the Catholic Church, it demanded the rescinding of all administrative and other orders and demanded that they should remain without interference; that is to say, Catholic and Protestant church.

DR. KAUFMANN: Mr. President, thank you very much. I have no further questions.

BY MR. DODD:

Q. You told this Tribunal yesterday that you became a party member in 1938 and that your party membership number was somewhere in the millions?

A. Seven million. The membership came into effect from March 1938. That is when I became formally a member of the Party.

Q. Well, when you say "formally", you are trying to distinguish them, as I understand it, and point out that you were, in fact, although maybe not formally a party member for some time, but you paid dues and you supported the party, didn't you?

A. The first two points are incorrect. I only paid supporting dues from the autumn, '37 -- from autumn, '32, rather, until the autumn of '33; but inside me I felt that I was a National Socialist and I called myself a party member without having signed the corresponding document.

Q. Were you a member of the Styrian Home Protective Organization?

A. The Styrian Home Protection Organization, yes, beginning in the autumn, '32.

Q. And that organization was taken over, practically in its entirety, by the National Socialist Party at one time and while you were a member, wasn't it?

A. That had been the intention but it was not carried out. There had been an agreement that the Styrian Home Protection Organigation was to be included in the Party, but Munich did not carry this out. Individual members of the Styrian Home Protection Organization had to join the Party individually.

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Q. Do you know a man by the name of Dr. Andreas Morsey, M-o-r-s-e-y?

A. Do you mean Andreas Moser, M-o-s-e-r? I think he was a solicitor but I didn't know him personally.

Q. Well, do you know that he was also a member of the Styrian Home Protective Organization?

A. No.

Q. Do you remember having a conversation with him on the 7th of March, 1938, just a few days before the Anschluss?

A. I have no recollection of it, no.

Q. Well, let me see if I can help you any. Do you remember telling him that you entered the Styrian Home Protective Organization in 1932 and that that was shortly before the organization was forbidden?

A. That is quite out of the question. The chief of the Styrian Home Protection Organization was Constantin Kammerhofer. The whole of Austria knew that.

Q. You don't remember, then, having any conversation in which you said such as I have just stated to you? Is your statement that you never said it or that you don't remember

H0155-0031

the conversation? That is what I am trying to get at.

A. I do not remember that conversation, but I am stating anyway that it is out of the question that I could have said that I was the chief of the Styrian Home Protection Organization, because the whole of Austria knew that this was Constantin Hammerhofer. I only may have told him that I was a very close friend of Hammerhofer, and that of course was the case.

Q. Well, I want to show you then his statement, or his testimony rather, in the case of the People versus Dr. Guido Schmidt. It is Document No. 3992. This testimony was given before the Supreme Penal Court in Vienna on the 19th day of March, 1946, before Judge Sucher.

MR. DODD: We offer thi s as USA 882.

Q. I ask you to look at the second page and you will find a sentence which begins: "On the 7th of March 1938--" and so on, --"before it was made possible; shortly before the Styrian Home Protective Organization was forbidden in 1933." Then he goeson and makes reference to the man Kammerhofer, whom you just made reference to, and further down, in the next sentence, he says: "He (Seyss-Inquart) had entered this organization and he had been admitted by Leader Engineer Richler(Franz) in Waitz and he had never left the organization." Therefore, your statement that you had not been a member of the NSDAP can be considered formally correct, but the statement that you had not worked illegally he says, is not true?

A Dr. Moser couldn't possibly know whether I worked illegally. He is basing his statement on theassumption that the Home Protection Organization was actually amalgamated into the NSDAP, and that is incorrect. The witness Rehrgeiter will be in position to confirm it. I still remain quite firm in my testimony.

Q Do you know a man named Rainer?

A Very well indeed. Dr. Friedrich Rainer.

Q Yes. You have asked for him and he is coming here as a witness in your behalf, isn't he?

A Yes.

Q But what do you say if he says that you became a member of the NSDAP when that Styrian Home Protective Organization went over?

H0155-0032

A To that I want to say this, that all of us--

Q All right, let me tell you something that will help you. This document is already in evidence, so I assume you may have seen it. It is No. 812 PS, USA.

A Yes. It is a letter, a report from Dr. Rainer.

Q So you know what he has said, I assume. You have seen the document, have you?

A Yes.

Q You agree that he does say in this document that you were a member through your membership in the Styrian Home Protective Organization a nd that you joined the Party, so to speak, when that organization was taken over?

A Yes. I want to tell you that until '38 that was even my opinion. I was doubting whether that was right or wrong, but in '38 the Party stated strictly that they were not recognizing that position and that the members of the Styrian Home Protection Organization were not members of the Party but that every one of them had to join the Party individually to be a party member. Rainer would have to confirm to that.

Q Well, tell me this, whether or not you were formally a member, didn't you, during all this time, acknowledge the leadership of Klausner, who was the leader of the National Socialist Party in Austria, and didn't you follow his wishes and obey his directions?

A The leaders in Austria or in Germany do you mean?

Q In Austria. I am talking about Klausner, who was in Austria.

A Oh, yes. It was clear to me and I recognized the fact that Klausner had the lead of the Austrian National Socialist. I did not recognize Klausner as my political leader, a fact which becomes apparent from that report which you, Mr. Prosecutor, have just mentioned. There Rainer says: "Seyss-Inquart did not, however, recognize Klausner as the leading political leader."

H0155 - 0033

Q Well, he says precisely the opposite, if you will take a look at it.

A Oh, no.

Q Well, now, wait a minute and look. On page 9, I think of the German text, line 7 from the bottom, page 7 in the English text:

"The relationship between Seyss-Inquart and Klausner was as follows: Seyss-Inquart acknowledged unconditionally the Party leadership and actions taken by it, and he also acknowledged Klausner as the leader of the Party. As a Party member, he was under the command of Klausner and received orders from him."

Do you find that?

Q I have a copy before me, but it goes on to say:

"Over and above that, he declared himself on the basis of the agreement at Berchtesgaden, and particularly on the basis of the statement made by the Fuehrer on the occasion of his state visit to Berlin, as being directly responsible to the Fuehrer for the illegal NSDAP in Austria within his political and state functions."

Then, there must be another passage where I say that on political matters I would not subordinate myself to Klausner.

Q Well, anyway, to move along, it is a fact, isn't it, that very early in this period you acknowledged your unqualified allegiance to Hitler, and long before the Anschluss, too? You acknowledged your political allegiance, didn't you?

A You can almost say that, yes. As far as the unconditional position was concerned, that wasn't clear to me at the time because it was my opinion that there would be a revolutionary way chosen, too.

Q Well, all right. Didn't you have something to do with the Dollfuss matter other than what you have told the Tribunal? You know, of course, that Rainer says that you did, in this same document 812-PS.

A Yes.

Q And I think it is important that you make some answer to it. You haven't done it on your direct testimony, and the document is in evidence, and in it he says that you supported --

A (Interposing): The reason, Mr. Prosecutor, why I didn't was because

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Rainer will be here as a witness. Rainer will have to tell us under oath which facts formed the basis for his statement. I can only say --

Q (Interposing): Well, I know. I understand that, and that is my reason for asking you now. You see, you will be off the witness stand when he is on it, and I would like to know what you say now to what Rainer has said in this document which is in evidence, to the effect that you were involved in the Dollfuss plot on July 25, 1934.

A No, that is quite wrong.

Q All right.

There is one other matter in connection with that that I think we should clear up now if we can. You didn't mean to convey to the Tribunal, did you, that the ceremonies -- if I may use that expression -- commemorating the assassination of Dollfuss had nothing to do with Dollfuss at the time that they were held?

A I certainly wish to create that impression, yes, because that celebration was a ceremony for the four National Socialists who had been hanged. On that occasion, as far as I remember, there wasn't the thought of Dollfuss' death. It was the fact that 107 men -- I think 106 or 107 men of that unit -- had made an attempt to remove a system which in National Socialist opinion was hostile to the Reich, and certain were hanged. The fact that Dollfuss was shot on that same occasion wasn't mentioned during the ceremony.

Q Well, I don't say that it was, but the ceremony certainly commemorated the attack on Dollfuss, and I think it is quibbling, is it not, to say that he had no --

A (Interposing): No, if Dollfuss hadn't been shot, then the ceremony would have been carried out just the same.

Q Well, you were appointed a State Councillor in 1937 -- and of course again we are going to talk a good deal in this short time, I think, about Rainer and this document. You know Rainer also says that you were appointed through the influence of Keppler and other Nazis in Austria, and Reich officials. Is that so? Did they influence your appointment in 1937? Rainer is wrong about that as well, is he?

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A In no way whatever. Keppler --

Q (Interposing): All right.

A (Continuing): -- had no influence at all on the nomination of State Councillor.

Q And Rainer, in your judgment, is in error when he says that they did have? You disagree with his statement, as I understand it. I want to make that clear.

A That is absolutely incorrect, yes.

Q All right.

A I was appointed State Councillor because Zernatto had discussed the matter with a friend of mine and then suggested it to Schuschnigg. A proposal from Keppler would probably have been cause for Schuschnigg's not nominating me.

Q It was just a casual thing, and Schuschnigg appointed you because somebody spoke to him, and the Nazis with whom you were familiar in those days had nothing to do with it, had they?

A Oh no, that is what I don't want to say. The possibility of appointment to State Councillor was discussed between Rainer and myself, and a mutual acquaintance had previously discussed the question with me before talking to Zernatto. Then I discussed it with Rainer, but there was no influence with regard to the appointment.

Q You have seen the document known as the Hoszbach Minutes, USA-25, 386-PS, introduced before this Tribunal many months ago. Do you recall that Hitler, in the course of this discourse that is reported by Hoszbach, stated some of the plans that he had for Austria as well as for Czechoslovakia? Do you remember that? It is in the document.

A Yes.

Q That was the 11th of November 1937 -- no, I'm sorry; it was on the 5th of November 1937. When did you first hear about that meeting? For the first time in your life, when did you hear about it?

A Here, in this room.

Q Now, do you remember the letter you wrote on the 11th of November to Dr. Jury?

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A Yes.

Q Do you remember it very well, or would you like to see a copy of it? I will show it to you. We have a copy here. You haven't seen this; this is a new document.

A I have also got a copy.

Q It is 3396-PS.

A That's right.

Q What did you mean when you wrote to Jury on the 11th day of November 1937 and said:

"I personally believe that there will be no visible results until early next year. In the meantime, I have received an authentic report from Linz..." and you go on to talk about a newspaper article.

What I wanted to know was: What did you mean by the events in the early part of 1938?

A In that situation prevailing in Austria at that time, it was clear that any political position wouldn't remain static. The National Socialists thought that during the subsequent weeks either Schuschnigg would retire or something would happen in any case. I considered the situation to be different. It was my opinion that the new political developments in Austria wouldn't happen until the spring, that is to say, developments towards further permissible activities for the National Socialists.

The newspaper article is something quite different.

Q I am not really concerned about that unless you feel that it is important to your answer. I wanted to go back a little bit. You see, you open your letter by referring to a conversation with Mr. Keppler. Now, he is the man who was Hitler's emissary on the 11th and 12th of March when Austria was handed over to the Nazis, isn't he?

A Yes, yes.

Q And you say, "The conversations were carried on in complete quiet and they were also extremely revealing. I don't believe that the matters have as yet been so fully investigated as it seems to be the case on the national side and in the Reich."

Then you go on, "I should be pleasantly surprised if the initial

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solution were to take place here in the course of this year."

What you were really talking about was the handing over of Austria to the Nazis. Isn't that what you had in mind when you wrote this letter? Isn't that the "initial solution"?

A No. First of all, it doesn't say that my conversation with Keppler was secret.

Q It says "in complete quiet". I don't know whether that is secret. I don't know what that means.

A Yes, it means that we talked very realistically. Possibly it was mentioned that some diplomatic pressure might be applied, but the target was permissible activities for National Socialists in Austria, with the intention, however, that the Anschluss should be aimed at and achieved.

The contents of the Hoszbach Document weren't mentioned at all, and I am perfectly convinced that Keppler had no idea of what they were. Keppler didn't have a very strong position with the Fuehrer, you see.

Q Yes. You recall you wrote Keppler a letter a little later, in January of 1938. Do you remember that?

A Yes.

Q That you wanted to give up your mandate or your trust or your responsibility or whatever the popular expression is.

A Yes.

Q What kind of a mandate did you have from Keppler or from Goering, indeed, to whom Keppler refers in his letter?

A No, the mandate was the Austrian State Councillorship. That is what I wanted, and I wanted the task of investigating the understanding necessary with the national opposition for cooperation with us. I didn't receive a mandate from Keppler, and I could hardly have accepted one.

Q You know the document is in evidence, 3397-PS. It is USA-702. Keppler says that he informed Goering of the situation and that Goering told him to keep you at your task, or that is the sense of it.

Now, my question is: Why should Goering be interested in this mandate if it only had to do with your position as State Councillor in Austria? He wasn't an official of the Austrian Government, and you were.

H0155 - 0038

A May I have the document in this case?

Q Yes, indeed.

You will also find reference in here to Dr. Jury, the very man concerning whom we talked a few minutes back, and to whom you wrote that letter on the 11th of November.

A Which half do you mean, Mr. Prosecutor.

Q I'm sorry; I didn't understand that. Which what?

A Which position do you mean with reference to this letter?

Q Well, my question about it is this: I am wondering why Keppler would go to Goering with your desire to withdraw from whatever position it was that you occupied with respect to the Nazis, or, as you put it, with respect to your place as State Councillor, and it is even more of a problem to us with respect to your explanation.

What did Goering have to do with that?

A Yes, quite. Yesterday I stated that Dr. Schuschnigg had given me the task of investigating conditions for cooperating with national opposition. I always told Schuschnigg that the Austrian National Socialists wouldn't cooperate without Hitler's agreement. With the knowledge of Zernatto and Dr. Schuschnigg I visited Goering and Hess, and both these gentlemen knew that I not only had contact with Austria, but also with German National Socialists, something which was also known to these gentlemen in the Reich, and they were interested. If now I should suddenly say, "I stop; I am not going on", then I should consider it my duty to inform these men in the Reich that they can no longer expect my work, my cooperation. Of course, that is a matter of course. One would always have to do that sort of thing.

H0155-0039

Q Yes, and the letter that you wrote to Jury on 11 November was after your meeting with Hess and Goering, too, wasn't it? Of course it was, you saw Goering in July, 1937.

A Yes, the Reichs Marshal testified to that already.

Q Well, alright. Now I will ask you a little bit about this meeting with Herr von Papen in Garmisch and which was not planned, as I understand you. You talked about the possibility of the position of the Minister of Security being filled by a member of the Nazi Party. Did you also talk of the possible trip of Schuschnigg to Berchtesgaden, which didn't come so long after this meeting?

A No, we didn't mention it. The technical means were there, and whether a meeting between Dr. Schuschnigg and Hitler was to be arranged was not discussed by us.

Q Wasn't it discussed at all? Wasn't there any discussion about it?

A A meeting between the two State leaders was not discussed.

Q When was the firsttime that you learned about the proposed meeting between Schuschnigg and Hitler, and from whom?

A I think two days ... On or about 10th of February, I had news coming from Rainer or Globocnik telling me beforehand that this meeting was arranged. It was at the same time that Zernatto asked me to come to Vienna, but he still didn't tell me what it was about.

Q Actually, isn't it a fact that you prepared notes for Hitler which were the basis of his discussions with Schuschnigg in Berchtesgaden?

A I didn't quite understand. What was it that I was supposed to have prepared?

Q My question is, isn't it a fact that you prepared notes, or if you prefer to call it a memorandum, for Hitler which he used as the basis of his discussion with Schuschnigg in Berchtesgaden?

A I made a written proposal for clearing up the matter, and then I gave it to Zernatto and Dr. Rainer, either one or theother. It is perfectly possible that Raines passed it on to the Reich.

Q You knew very well that Muehlmann was sent up there that night by you and your associates, the night before the conference, that he was sent to Berchtesgaden ahead of Schuschnigg and Von Papen with that memorandum, isn't that a fact?

H0155-0040

A Dr. Muehlmann?

Q Yes.

A Dr. Muehlmann went to Berchtesgaden at that time and I was informed that he probably took notes about my last conversation with Dr. Schuschnigg.

Q Don't you know that he did, and Schuschnigg didn't know and that's the important thing that Muehlmann was doing up there ahead of him? He took the notes and conditions you had presented to Schuschnigg the night before. Schuschnigg didn't know that when he went there like a lamb the night before.

A I can understand Schuschnigg didn't know. Quite probably he informed Keppler. When I talked to Dr. Schuschnigg, I did not know Muehlmann would go.

Q When did you find out that Muehlmann did go?

A After the discussion with Dr. Schuschnigg, I returned to my office and there was Dr. Rainer, and probably someone else, and I told Dr. Rainer about our conversation. Possibly Muehlmann was present and consequently, I don't want to except myself from this, we decided to inform Hitler of the contents of our conversation.. In the meantime, Dr. Schuschnigg probably went to the station and there would not have been any reason to inform him directly.

Q No, of course not, but you did want to inform Hitler of the nature of the conversation with Chancellor Schuschnigg that night?

A At that time, I saw no opportunity or cause to inform Dr. Schuschnigg of the fact that Muehlmann was going.

Q You may not have seen any cause, but what I am trying to make clear is that you did want to let Hitler know that you had this conversation with Schuschnigg, and what you said?

A Yes.

Q Why were you notifying the head of another State about your conversation with the head of your own State to which you owed allegiance?

A I don't see that this is a breach of faith, informing the leader of another state.

Q Would you say that you couldnegotiate between your country and Germany at that time without notifying your own Chancellors? Schuschnigg didn't know that you sent that note on the Hitler, now be frank about it?

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A Right, it is certain that Dr. Schuschnigg didn't know. But Dr. Schuschnigg did know that I was in constant contact with the Reich through Keppler, and that theoutcome of our conversation was always based on the Reich for it was not a political understanding unless Hitler agreed. That's a fact. We could not have made a political understanding any other way.

Q That was not the only time that you did not play fairly with Schuschnigg. Do you remember the time when you gave him your word of honor that you would not make known his plans for the plebscite?

A Yes.

Q You went from that meeting to the Regina Hotel, and do you remember what your associates asked you and what answers you made?

A Mr. Prosecutor, I cannot help it, but I think you are making a mistake. At that time I did not go to the Regina Hotel. It was on the evening of the 10th of March and it was quite a different story. First of all, it was wrong for Dr. Schuschnigg to ask me for my word of honor. On the evening of 12 February it was my duty to inform the Reich. But I kept my word. Still, on the same evening, Jury came to me, you have heard this from other sources, and not with a word did I mention that to Jury. Then, on the following morning, Rainer came .... He said that it was in the morning, but it was toward the middle of the day, really.

Q Well, I will accept the correction as tothe time, but I don't think it 's very important.

A It is very important.

Q Very well, we will settle for that. I want you tto hear what Rainer says about this keeping of your word.

"Seyss-Inquart said that he knew about this for only a few hours, but that he could not talk about it because he had given his word to keep it secret, but during the talk, he made it understood that the illegal information we received was based on truth, and that in view of the new situation, he had been cooperating with the Landesleitung from the very first moment."

Now, certainly, that is not keeping secret or keeping your word as both you and Schuschnigg understood it.

A In this case, it was not possible to do it any differently. It was toward mid-day of the day when this thing happened, but you can't stand

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in front of me and tell me that this is a bunch of lies because I did promise Schuschnigg to do this -- to keep this secret.

Q You knew when to keep secret and you know when to make implications in order to give to your associates what Schuschnigg asked you to keep confidential.

When did you learn the true nature of what happened at Berchtesgaden, about the terrible threats and the terrible way Schuschnigg was treated up there?

A That I heard from Zernatto. I think it was, if I am right, on February 13. Then I heard it from Dr. Schmidt. He told me about it himself.

Q You had a rather complete picture of the way that Schuschnigg was treated and I suppose you know about Keitel being called in to frighten him, and all the threats of marching in by sundown. You had a full knowledge of what happened, didn't you?

A I don't know the story of Keitel, but Schuschnigg told me that the generals were there, and apparently there was military pressure exercised.

Q And you knew, too, that Hitler demanded your inclusion in the Government as Minister of Security. Schuschnigg told you that, didn't he?

A Yes, I think that Hitler asked that the National Socialists should have an Interior and Security Minister at their disposal, and Schuschnigg agreed with Hitler on that question. Schuschnigg was supposed to have mentioned my name, but that is nothing but rumors and stories and I don't know much about that.

Q I think this is rather important, because you have a witness coming here who was at that meeting, Dr. Schmidt. Are you telling this Tribunal that it was Schuschnigg who suggested your name, and not Hitler who demanded that you be appointed?

A I don't want to tell the Tribunal any stories, I merely want to give to them the background of events as far as possible. If Schmidt says that it was the Fuehrer who suggested my name, then of course I will believe him.

Q Can you tell us who told you that, because we have the sworn testimony of Foreign Minister Schmidt that Hitler demanded it and that Schuschnigg agreed.

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A Dr. Muehlmann told me that. But I want to say, that the facts are as you state them. This is a tactical task. If the Fuehrer forced Schuschnigg to supply the Minister of the Interior, and then there is a display of words, I do not want to draw any conclusion from that as to who was supporting my defense.

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Q I think that is very brave. The fact of the matter is that it was all arranged; you know it and so did Hitler that you were to be included in the government and that anything that went on was unimportant as to who actually mentioned your name first?

A That is true, but I did not know that on that day Hitler would demand the Ministry of the Interior and that I would be nominated. Von Papen did not inform me about the outcome of his conversation with Hitler, you see. I only questioned that that is how the matter might proceed. I was not by any means so much of a persona grata in Berlin that Berlin would certainly decide on me.

Q Not many days after that agreement, so-called, which was reached in Berchtesgaden, Hitler broke it, did he not?

A On 17 February, yes.

Q He broke it before the 17th, didn't he? Do you remember when he appointed Klausner as head of the Party, despite the fact that he had agreed with Schuschnigg that no such thing would be done and that there would be no such political organization? You knew about that, didn't you, when it was done?

A I beg your pardon, but I think perhaps I misunderstood your first question.

Q Maybe it is a little involved. The point is that a fewdays after the meeting inBerchtesgaden, Hitler appointed Klausner as the head of the illegal Nazi Party in Austria; isn't that so?

A I believe that only happened after the 17th of February, because I myself suggested to Hitler that he ought to agree to Klausner being the leader of the National Socialists in Austria. It was perfectly clear to me that no National Socialist in Austria would follow anybody unless Hitler was agreeable.

Q Would you accept the recorded historyof Guido Zernatto, whose book you have offered to the Tribunal? Would you accept his record of when it happened?

A Yes, I would.

Q He says it was a fewdays after the Berchtesgaden meeting. I suppose that could be the 17th, but it is not likely. Wasn't it before you

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went to Berlin?

A Who said that--I?

Q Zernatto.

A No, the first time that I saw Hitler in my life was 17 February, and at that time I think Klausner had not yet been nominated, because I myself mentioned to Hitler that he ought to agree to Klausner's becoming the leader of the Austrian Nazis.

Q That is a very crucial matter in your whole dealing between Austria and Germany, because if as Zernatto indicates, this agreement was broken a few days after the meeting, then when you went to Berlin and talked about a Trojan Horse you know that Hitler had already started his illegal activity in Austria, if, indeed, it was before you went there.

A I would like to say that the illegal activities were not really Hitler's but several peoples'. They never ceased, and it was my intention to bring this illegal work into a form which we could control from Austria, something which I also told Schuschnigg. I said that the Austrian Nazis will not do anything without Hitler.

Q That is not the point. I am not going to labor it further. I am going to ask you one other question about your meeting with Hitler. You surely know by the 17th how badly Schuschnigg and Schmidt had been treated at Berchtesgaden. Did you say anything to Hitler about that in the course of two and a half hours' conversation with him?

A No. For the policy of the Fatherland Front from 1934 I was not responsible. It was a reaction to the suppression of the National Socialists in Austria.

Q Well, all right. Now we come down to the 8th day of March. That is the day that Schuschnigg told you about the plebiscite that he intended to hold in a few days.

A Yes.

Q It was on 9 March that you wrote the letter to Schuschnigg and sent the copy of it to Hitler, was it not?

A Yes.

Q Did you tell Schuschnigg that you were sending a copy by courier to Hitler?

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A I don't know, but I would not have thought about it for a minute because after 12 February 1938, I had to inform the Reich.

Q You certainly also had to inform Schuschnigg, didn't you, as his State Counsellor that you were sending a copy of this very important letter to Hitler? You did not tell Schuschnigg about that, isn't that true?

A It is possible, but I believe that I may have told Zernatto. I certainly had informed Zernatto; that I was right there is no doubt.

Q We will see about that. The next night you had a meeting with Schuschnigg and Schmidt and Seubl, I guess in the Chancellory office. You never mentioned the fact to anyone of them there that you had already communicated with Hitler by special courier; do you remember that meeting?

A Actually I do not have a clear picture of it. I only remember the meeting of March 10, but that possibly -- very probably -- is like that.

Q That is the night that youdid go to the Regina Hotel and saw Klausner; right after that meeting you went right down the street and saw your associates. Did you tell them what Schuschnigg had said to you and what you had said to Schuschnigg in the conversations a little earlier?

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A On 10 March, is that right?

Q Yes, on the 10th.

A Yes, but I found an almost incredible lack of interest.

Q But your courier was back from Berlin, wasn't he; Globocnik had returned from Berlin?

A Yes. Globocnik came back and informed us that Berlin was refusing to agree to this plebiscite and that the following day I would receive a message indicating Hitler's attitude.

Q Now, during that same meeting at the Regina Hotel you heard Rainer give instructions for the mobilization of the Party in Austria to be ready to put on demonstrations or to seize power the next day. You were there when he laid out his plans. Do you remember that?

A I think that is an exaggeration on Rainer's part. I only remember that Klausner said "Well, then we shall have to be in touch with you tomorrow." That of course demonstrations might happen, that was so natural that everybody was aware of it. If that matter was not cleared up, then and there, there would be serious demonstrations, but the government also knew that.

Q I think we can get over it pretty quickly if you will agree with me that these demonstrations were not spontaneous at all, as I thought you were trying to convey to the Tribunal, but that they were wellplanned out by your associates.

A That the actions were not spontaneous? Certainly they were not.

Q They were not?

A The entire situation after 8 March became more and more heated.

Q All right. Now then, when Horstenau came back from Berlin on the next morning -- 11 March -- he told you about the planned or the talk of military events in Berlin, didn't he?

A Horstenau?

Q Yes.

A Yes, and we told Dr. Schuschnigg the same thing.

Q You went to see Schuschnigg and you wrote him another letter that same morning.

A Before that, during a conversation which lasted for more than two hours, I reported all details, and the letter was merely a confirmation of them.

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Q The letter was an ultimatum, to Schuschnigg, wasn't it, and it was written by you at the direction of your political superior, Klausner?

A No. Rainer has stated that, but that again is one of his statements. Mr. Prosecutor, if an ultimatum can be mentioned in this connection, then I would have given it orally beforehand because when I was leaving Dr. Schuschnigg I asked him to reply to me by two o'clock in the afternoon, and I said that in the event of his refusal Glaise and I would have to resign, but at that time I had not even spoken to Klausner yet.

Q Well, as I take it, about everything that Rainer has said in this report, in this document, 812-PS, you say is untrue. He also says there --

A Untrue? No, but slightly exaggerated.

Q All right. I just want to get your views, I repeat, because you will not be available after he comes to the stand. He also says that he talked with you about the seizure of power in the event that Schuschnigg refused your ultimatum. Do you say that is so or not so?

A I don't remember. I don't think so.

Q What do you say about his statement that you discussed three definite possible steps for the taking over of Austria and handing it over to Germany? Is that true or not?

A I believe that that is a construction placed upon it by Rainer afterwards.

Q Now, also, I have to ask you about these things because we must get your view, I think.

A Please do.

Q Rainer also says that the telegram, the well known telegram to Hitler saying that there was a bad situation in Austria, that that telegram was actually brought back by Glaise Horstenau. He says that in the same document. What do you say to that?

A It is not quite correct.

Q Well, how is it incorrect, if it isn't correct? You indicate that there is some truth in it.

A Yes. I received Hitler's letter through a courier, not through Glaise Horstenau. In that letter there was a draft for a telegram.

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Q And that is the same telegram that Goering referred to when he talked on the telephone, and the same one that Keppler referred to when he talked to Dietrich on the telephone, isn't it?

A No, that telegram was at least twice as long.

Q Well, finally, let me ask you this about that particular day. This radio speech that you made was really made at the direction of Goering, was it not? He told you --

A No.

Q -- to make a statement, didn't he?

A No, not at all. There is no question of it.

Q You had better look at the transcript of his telephone conversation with you. It is 1957 hours that night, where he told you to make a statement to the people, and about three minutes later you went on the radio and made it. Whatdo you mean that Goering did not tell you to do it?

A Yes, but Goering asked me to do something quite different. He asked me to state that there was a provisional government now to take over power. That is what I believe. I introduced myself as Minister of the Interior and Security and I demanded that the people should remain quiet and should not put up any resistance to the arrival of German troops, which was exactly what Schuschnigg had said a half hour before me.

Q It only took you two or three minutes to get to the microphone after you talked to Goering?

A Yes; I talked to the Reichsmarshal -- Field Marshal Goering such a lot that I don't want to implicate him or myself in anything that you might have concluded from telephone calls. I believe that I did not do any of these things.

Q You are not indicating, are you, that Goering was not interested in your selling out Austria to Germany? He certainly had a great interest in what happened there that day, did he not?

A Yes, but I don't think your expression "selling out" is very suitable. Goering had obvious interests to bring this thing to a final [illegible]on in some fantastic way.

Q You told the Tribunal yesterday that there were about 40 SS men in the building, and that you thought they were there because Miklas and Schuschnigg did nothing to remove them, that they could very easily have removed them. Now, the truth of the matter is that you were the minister for security, and it was your responsibility to remove them, was it not?

A No, I was not in the building. Apart from that, there was Dr. Scubl, and one word from Dr. Miklas or Dr. Schuschnigg would have sufficed, whereupon 300 men from the guard battalion would have arrived to put the matter right. You couldn't expect me, at that moment, to proceed against the National Socialists.

Q Well, if one word from them would have sufficed, just the wave of your finger would have sufficed, would it not, to get them out of there? They were your National Socialist SS men; beside the fact that you were the head of the police.

A Whether they would have obeyed me or not, I don't know. I didn't have command over the National Guard Battalion. Certainly, indubitably, I could have exercised my influence and it might have been successful, but these men who were there did not mean anything very much in my eyes.

Q The place was surrounded with them, was it not? They were not only in the building, but they were outside of it and on the roofs of the neighbouri building. You remember all that?

A A few thousand National Socialists were outside the Chancellery at the time.

Q Well, we had better refer to your friend Rainer again, who is coming here in your behalf, and see what he says about it.

Have you seen the article --I guess it is fair to call it an article -- that he wrote about that historical night? Are you familiar with that?

A Oh yes; you can call it more than an article.

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Q Yes. He called it "Hours of historical Decision."

MR. DODD: This is 4004-PS, Mr. President, USA-883.

BY MR. DODD:

Q You will agree, then, that it is quite a different picture that Rainer gives from the one that you have given to this Tribunal, is it not? If you know the article, and you say you do. He says, you know, that Kaltenbrunner commanded 700 SS men there that night, and that Lukesch had 6,000 SA men within half an hour, and they received the order to advance and occupy the Federal Chancellery and to hold the ring and the building until the National Socialist Government was proclaimed; and that 40 SS men, under Kaltenbrunner's adjutant, Rinner, received the order to force their way into and occupy the French Chancellery, and so on.

He says that you are the man who ordered that Rinner be let in. That is very important, and I would like to know what you say about that. Rinner was in command of the 40 SS men, that you say somebody else should have removed. You will find that he says:

"It was going on 10 o'clock when the commanding officer of the guards reported to the Minister of Security, Dr. Seyss, who happened to be in our room, that a man

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accompanied by 40 others demanded to be let in through the gate, invoking higher orders. I quickly informed Dr. Seyss that these were Rinner and his 40 men who had been detailed for the occupation of the Federal Chancellery. Dr. Seyss ordered that Rinner be brought upstairs. I shall never forget this moment. Escorted by a guardsman as tall as a lamp-post, Felix Rinner, the famous Austrian track champion", and so on.

He was the first National Socialist Sturmfuehrer who entered the headquarters that night, and you are the man, actually, who let him in.

A That is an article of victory, written in the mood of victory. All I can say is that these National Socialists, in black trousers and white shirts, were noticed by me. I saw that they were in the corridors and I asked, "What goes on?" But this dramatic account that I had opened the gate -- well, let's wait and see whether Rainer confirms that.

Q Well, I understand that; we look forward to it as well as you do.

You will notice that a little further on he says that you, on your own responsibility, gave the order to open the gate and let those men in. But you say that isn't so. That is all I want to know.

A No, no; that is quite new and strange to me.

Q Well, I think we can pass on. There isn't any truth at all, I expect, is there, in this whole article by Rainer? Or is there something that you might admit is true? You know he is going to be your witness.

A I am extremely interested to see what he says here. This is a somewhat poetical account of these events. The basis is probably quite correct, but there is a lot of victory celebration attached to it.

Q I think I should also tell you, by way of a preliminary to a question, that Guido Schmidt, in testimony which we have here and which I will be glad to present to you, says that the place was surrounded by these SS men and that they were in there with your knowledge. What do you say to that? He is also going to be your witness.

A I have said that a few thousand National Socialists had collected around the Chancellery. Whether they were SS or SA or what, that I don't know. There were a lot of women amongst them.

This so-called mobilization at the order of the Party was unknown to me,

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but I told Dr. Schuschnigg as early as that morning that if we could not agree, then he would have to expect large-scale demonstrations from the Party.

Q Now, one other matter. Did you tell the Tribunal, or did I understand you correctly when I heard you testify that Miklas resigned without any request from you? That is, President Miklas, who was then the Bund President of Austria. Is it your testimony that he resigned without any request from yo

A It was my request that he should sign the Anschluss Law, and he said he would not do that, he would resign, and according to the Constitution his rights would then pass on to me. He said he was not goint to try to beat developments. I don't think I told him to resign; I merely demanded that he sign the law.

Q Well, he has testified before a court in Vienna, in which testimony he says that you demanded it. Now do you remember, or have you forgotten, or do you say that is untrue?

A No; I consider that is out of the question because I clearly remembe how he said: "I can't sign the law, but I shall not stand in the way of developments. If you confirm to me that it is necessary that the Anschluss b carried out, then I shall resign and you will have my powers." If he understood that as a demand from me to resign, then I don't want to contradict him. I don't want to make his position any more difficult, because I confess that I was in favor of the Anschluss.

Q Well, I want to offer this in evidence, and you may look at it if you like. In any event, it is his testimony before the court in Vienna, on the 30 day of January 1946. It is document 3697-PS, and it becomes USA-884. If you would like to see it, you may. He says just about what I put to you, that you talked around it a good deal, said it was very distasteful for you, but nevertheless you were bound to comply with the order from Germany and therefore he had to resign.

That is on page 17 of the English text of the testimony of President Mikla

Did you once write a letter to Himmler, or did you twice write letters to Himmler, about Buerckel? One of them is in evidence, and I want to ask you if you remember the other one. Do you remember the letter that you wrote to Himmler in which you said that it was not true that you were interfering with

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the deportation of the Jews, that you had only insisted that they be turned over to Kaltenbrunner's men, the SD?

A I think that has also been submitted. I know I have seen it in this court room.

Q I think you may have seen it, but it has not been submitted in evidence; however, I wish to do so.

A Yes, but the letter is certainly correct.

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Q It is number 3398-PS, which is USA-885.

In the letter you said that you gave instructions that the deportation of the Jews should be carried out only in agreement with the SD and through the SD, and that you could not permit wild actions.

A Right. Do you want me to state my views, Mr. Prosecutor?

Q Well, I want to ask you this. Then you knew all about it, and I understood you to say that you did anyway, on your direct examination. You knew about the deportation of the Jews, and you were doing your part to see that the SD carried it out. That is the only point I am trying to make with you, and I assume that you agree.

A Well, of course I knew that some trains had been loaded with Jews in Vienna. They were then taken to Poland and unloaded, but no preparations had been made. Therefore, there were serious difficulties, and I fought against that. When there were complaints, I told Himmler about it -- that is, when Buerckel had complained. I said that if such actions took place, then they ought to be carried out by the SD, because I was under the impression that in such a case the matter would have been taken care of and preparations would have been made more efficiently. Of course, when I say that today it sounds very bitter or very tragic, but at that time I thought that at least emergency quarters would be provided. Apart from that, I knew, from the 9th of November, 1938, how such things were being carried out. The Party advanced, and then the State had to take over these things and carry them out.

Q Yes. At any event, you knew that Kaltenbrunner at that time was deporting, or had charge of the transporting of the Jews out of Austria.

A I do not recall Kaltenbrunner in that connection. I think that was done by the Party alone. I think the Party alone did that. I believe Kaltenbrunner was in no way included.

Q Didn't you say the SD, and wasn't that under Kaltenbrunner in Austria, at that time?

A I meant that he ought to do it, but these transports were not run by Kaltenbrunner; Globocnik ran them.

Q Well, they were under Kaltenbrunner, were they not? He was the head of the whole police system in Austria at that time.

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A Well, that was rather the commander of the Security Police, and how much influence he had I couldn't say, but I think it was very little.

Q You found out since you have been sitting here that he had quite a lot, didn't you? You now know that he had a lot to do with it.

A No.

Q You mean to say you haven't heard here that Kaltenbrunner had anything to do with the removal of the Jews?

A I shall leave that to Kaltenbrunner. As far as my observations are concerned, I don't know, because I was no longer in Austria.

Q Well, I am not going to labor it, but that isn't what I asked you. I asked you if you hamen't heard in this court toom, that Kaltenbrunner had much to do with the removal of Jews.

A Yes.

Q Certainly. You relate that back to your letter, don't you? And don't you know now that he had something to do with the removal of Jews at the time you wrote the letter?

A The removal -- that is to say, the evacuation of Jews mentioned in this document -- Kaltenbrunner had nothing to do with that, in my opinion, because that was a wild action carried out by the Party, or, respectively, Gauleiter Globotnik.

Q Do you remember when you got the authority, through Lammers, for the confiscation of property that you asked for in Vienna?

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A. Yes.

Q. Have you seen these documents ? They are new : your letter to Lammers his reply back to you, and the order which was issued at your request. Those are three documents.

A. Yes.

Q. Your letter to Lammers is dated the 23rd of October 1938, and it is 3448-PS, USA-886.

Lammers' reply to you is dated the 24th day of October 1938 and it is 3447-PS, which becomes USA-887.

The order itself is 3450-PS, which becomes USA-888.

That was a confiscation of the property of the Jews in Austria, was it not, which you requested ?

A. Yes. I testified yesterday, or the day before, that I cooperated in this decree.

THE PRESIDENT: Shall we adjourn now ?

MR. DODD: I can finish in five minutes, Mr. President .

THE PRESIDENT: Very well go on, then.

MR. DODD: I would like to finish up, and I think I can do it.

Q. Mr. Defendant, when did you first learn about the many Austrians who were dying in the concentration camps after the Anschluss ?

A. Of the Austrians who died in concentration camps, if at all, then in this court room; but of numerous Austrians who were in concentration camps, I knew that some political opponents were in concentration camps, but they were gradually being released, or at least some of them.

Q. Didn't you know that they were being killed in Buchenwald as early as 1939 , Didn't you know some of the people who knew about their deaths ? Now think a minute before you answer this. Didn't you know about the deaths in Buchenwald of people who had been your political opponents ?

A. I do not remember, Mr. Prosecutor.

Q. You never heard a word about it ?

A. I don't mean to say that. If you give me a name, then I shall tell you at once what the situation is.

Q. I know if I tell you the name you will tell me you heard it, I suppose.

However, I am asking you first if you didn't in fact know that some of them were dying in these camps. That is all I want to know, It was pretty common knowledge in Austria, was it not ,

A. I shall most certainly admit that there is a possibility that I was told that one or another died, even as early as 1938 or 1939.

Q. Well, you still continued to go on with the Nazis although at least you know that vast number of you fellow countrymen were being thrown into concentration camps. Didn't that make any difference to you ? Whatever you thought before the Anschluss, you certainly knew what they were doing after it.

A. That a large number were supposed to have died is out of the question and I didn't know about that. That there were a few one or another, who died, that could not possibly have affected me to such an extent because, between 1934 and 1938, at least as many National Socialists had died in the concentration camps of Dr. Dollfuss and Fatherland Front; that is to say, the Austrian State.

Q. Well now, wouldn't you agree with me that conditions were very bad in Austria after the Nazis took over, and they went from bad to worse,and you know it and everybody else knew it ? Or do you want to take the position that they improved ? I would just like to know what your opinion is .

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A Yes, I will tell your openly. If, of cou rse, you hear the leaders of the opposition, then it wasterrible. However, if you saw the people up until 1939, then you could see that they lived. Unemployment disappeared, and there was quite a different spirit. But then, of course, the war made that situation worse and turned it into an impossible one.

Q One last question, if you can answer it for me briefly.

Do I understand you to accept responsibility for whatever went on in Poland, whatever is established as having gone on in Poland? That is, joint responsibility with Frank? Do you accept that as his deputy?

A First of all, that can only apply to the time when I was there.

Q Of course. I certainly don't mean after you left there. I am only talking about the time that you were there.

A Well, then, as deputy, only where I acted as a deputy, or where crimes came to my knowledge without my interfering or stopping them.

MR. DODD: I just want to read into the record one sentence from a document which has already been offered inevidence, Mr. President. It is document 2233-PS. From that document, page 1, paragraph 4, I would like to read this, because part of it was read by the defense, but this part was left out. It is under the small Arabic figure three;

"The necessary police and other actions arising from this will be under the immediate direction of the Chief of the Security Police; every arbitrary action is to be strictly thwarted."

This had to do, by the way, with the AB Action, concerning which this witness has testified.

BY MR. DODD:

Q The record whows that you, indeed, Mr. Defendant, were present at the time that the defendant Frank discussed this AB action and made this statement which I have just read into the record. Certainly you don't deny responsibility for whatever was done under the AB Action, do you? Because you did know about that.

A Neither in that case nore in any other case did I deny anything. I spoke especially about the AB Action.

MR. DODD: Mr. President, document 2233-PS, which is USSR-223, is now available in the French. It is already in evidence and has been accepted

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by the Tribunal, but a French copy was not available at the time it was offered. It has now been completely translated into the French, and I offer it to the Tribunal for assistance in the French.

I have conlcluded my examination.

THE PRESIDENT: Mr. Dodd, you said that the document of thellth of November, 1937, 3369-PS, was a new document. Did you give it a number?

MR. DODD: Just a moment, Mr. President, and I will check that.

I meant to offer it, and I fear that I did omit doing so. That wuld become USA-889. It was a new document, and I did intend to offer it.

THE PRESIDENT: The Tribunal will adjourn, and we will reconvene at ten past two.

(A recess was taken until 1410 hours.)

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AFTERNOON SESSION

(The hearing reconvened at 1415 hours, 12 June 1946.)

ARTHUR SEYSS-INQUART -- Resumed

REDIRECT EXAMINATION

BY DR. STEINBAUER (Counsel for the defendant Seyss-Inquart):

Q. Witness, the French prosecutor asked you whether you were the deputy of the governor-general, Frank, and for that reason, knew Auschwitz. Can you tell us where Auschwitz was?

A. Auschwitz was not in the region of the governor-general, but rather in the area which belonged to the Gau Upper Silesia (Oberschlesien).

Q. Thank you. Then the same prosecutor confronted you with the testimony of a witness, a girl of 20 years of age, a Miss Kunze, 4594-PS. According to this testimony, you allegedly repeatedly sent reports to Himmler.

A. In the evenings when I was confronted with this matter, I was rather tired at the contradiction contained therein, and said that under Paragraph 3 certain reports are mentioned which are not to be connected with me. This witness asserted that reports from me went to Himmler dealing with the Jewish question and with the security police. That is utter nonsense, and the results as shown contradict this.

The Reich Commissars were in no way subordinate to Himmler as far as the Jewish question was concerned. I perhaps sent two or three letters to Himmler -- at the most, four -- and these letters concerned themselves with highly individual cases. They went from my staff to the staff of Himmler; but they never went by way of the security police.

Q. That is sufficient. Thank you. We shall now return to another point Further, you were confronted with the testimony of a Dr. Karl Georg Schoengart in connection with the question of the shooting of hostages.

A. Yes. Dr. Schoengart was the successor to Rauter; and it is correct that he came to me after he had inspected the scene of these acts. He told me that Himmler was demanding the shooting of 540 hostages. All of them were prominent Dutchmen. I was aghast; and Schoengart said immediately that that

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was completely out of the question, anyway.

There I most certainly told Schoengart that we had to do something, that we had to react in some way and do something. He then told me that a number of cases of death sentences was on hand. The sentences were to be carried out within the next few days. These people were to be shot. He suggested that these people be shot and that an announcement be made to that effect.

Q. Did you and the Wehrmacht commanders in the Netherlands issue warnings to the population dealing with international law?

A. I believe there is a document available which contained a warning on my part against sabotage acts in which I threatened that in the case of anyone not observing these laws the property of the saboteurs would be threatened. I said further that the population should take note of these matters.

DR. STEINBAUER: I should like to call the attention of the High Tribunal to the fact that this warning is contained in 1163-PS.

BY DR. STEINBAUER:

Q. Further, I have to confront you with a document which is an interrogatory of the defendant General Christiansen, in which he says that you were th one who issued the order for the shooting of hostages.

A. I believe that there General Christiansen does not say that. He does admit that he issued the order; but what he means is that I, so to speak, was urging behind the scenes. I made my statement yesterday, but perhaps the witness Wimmer can give us more exact details on this, a man who was present at this discussion, as Christiansen himself states.

DR. STEINBAUER: Last evening I once more studied the question, since the resolution of the Court remained in my mind to the effect that this interrogatory by the witness, which is really incriminating, was accepted and admitted by the Court. In my opinion, according to Point 21 of the Charter, something else should apply here. I believe that a matter like that has no probative value. It is possible that Christiansen would be judged and sentenced by the British, and it might result that his interrogatory and his statements are not correct.

I wish to call the attention of the Tribunal to the statement of General Commissioner Hunt, which I have already submitted.

H0155 - 0063

BY DR. STEINBAUER:

Q. Then I have a further suggestion. The French prosecutor asserted that the Dutch general secretaries were left by the Dutch government, and that you were not justified in interfering with the sovereignty of the Netherlands. Please comment on that.

A. I know nothing about that, and I believe it seems to be of little significance,,anyway. The Netherlands capitulated, and they capitulated for the entire region except Seeland. The regulations and the stipulations were military. Apart from that, it was unconditional surrender. I believe that on the basis of international law I was entirely justified in taking over the government and taking it into my own hands.

DR. STEINBAUER: May it please the High Tribunal, in this connection, I should like to submit a document which deals with this question and takes issue with it. This is the document of the judge of the highest court of the Netherlands of the 12th of January 1942. In my final speech I shall refer to this. It will be submitted to the High Tribunal in four languages. It has been sworn to, and the prosecution agrees. The exhibit number is 96.

BY DR. STEINBAUER:

Q. Then further, the French prosecutor asserted that you carried out these mass shootings and deportations of civilian workers, and the transporting of Jews, so that the biological power of the Netherlands would be decreased.

A. I believe that I can cite concrete examples which show that I did exactly the opposite. It is certain that during a war, losses among the population do arise, and perhaps if I had given more attention or put up a greater resistance, I might have prevented something. That this did not take place, I regretted. But two figures are decisive: the mortality figure and the population increase.

Up until the year 1944, the mortality rate in Holland, on the basis of the official vital statistics, went from 10-plus to 10; and in the years 1914-1918 there were 12 per thousand, and rose to 17 per thousand. That was an increase of 50%, even though the Dutch people were under their own government, were not in the war, and were not under a blockade. According to the statistic

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which I received from the Netherlands vital statistics bureau, from 1914 to 1918, there was a decrease of perhaps one half, and in the year of my administration, up until 1944, the increase of population rose from 20 per thousand to 25 per thousand. That is about a one-fourth increase.

First of all, we see the will to live among the Dutch population. But it is also a consequence of the measures which my civilian administration issued.

DR. STEINBAUER: In order to prove the figures just cited by my client, I should like to submit a report of the Netherlands Central Statistics Bureau. I received this by way of the general secretary, but it is not sworn to in the German and English versions. I should like to add that in these statistics --

THE PRESIDENT: (Interposing) Dr. Steinbauer, how do you show the relevance of this?

DR. STEINBAUER: Since in the indictment and in the proceedings here it is claimed that Seyss-Inquart had the intention of germanizing the Dutch people to break the resistance. He also is held responsible for the poor state of health of the population and for the mortality rate. These were assertions made in Dutch government reports.

Yesterday, with the permission of the Tribunal, I corrected these figures and I received this answer from the Dutch government. In fact, they answered my questions very well. They included the word "victims". I wanted to be completely in line with the truth and submit everything as I received it.

H0155-0065

THE PRESIDENT: Are you putting that in then? Are you offering that in evidence?

DR. STEINBAUER: Yes, I should like to submit it the way I received it from the General Secretary. That is No.106.

THE WITNESS: I should like to add that the reduction of the birth rate in the years 1941-1918 is shown at a lower figure that the report which I received in 1945.

Q I have two questions regarding Austria. The first question is: The American prosecutor has charged that you had given Muehlmann notes to take to Berchtesgaden. Can you say what the notes contained?

A Yes. It was the outcome of the discussion which I had had with Dr. Schuschnigg and, above all, the agreement of Dr. Jury, Dr. Reinthaler and Dr. Fischboeck was also included on how the experts on the Fatherland front were incorporated; on all things that we had agreed on, things which Hitler, at Berchtesgaden, did not have to put through for us here.

Q Then the American prosecutor asked you whether you knew that Austrians, after the Anschluss, starved in concentration camps -- after the Anschluss. You answered, no, that you did not know. But in Austrian concentration camps people died you know. Here in this room, I believe, in the course of time, you have become familiar with conditions in German concentration camps. Were the two identical?

A In no way at all, and, apart from that, I said that it might have been possible that I heard that Austrians died in Austrian concentration camps. Those things that we heard about German concentration camps, the Austrian collection camps can in no way be compared with the German concentration camps.

DR. STEINBAUER: Thank you. I have concluded my examination in chief of the Defendant, and with the permission of the High Tribunal, I should like to call my first witness, General Glaise-Horstenau.

BY MR. BIDDLE:

Q Defendant, you said that you had considered that the laws of land warfare were obsolete. Do you remember?

A Yes.

Q Did you consider that they were all obsolete?

H0155-0066

A No.

Q Which ones did you consider were obsolete?

A I was of the opinion that the contractual prerequisites for the protection of the civilian population was obsolete because of technical developments for certain warlike measures of complete blockade. Bomb attacks were interested primarily with the destruction of the civilian population and, consequently, they were to justifiable only if the civilian population was considered a war potential , just like the troops at the front; and if that is the case, then the civilian population of the occupied countries must be considered in such a way.

Q And when you say "considered in such a way", you mean therefore Germany had the right to use the civilian population to fight the war, make ammunition and so forth; isn't that the conclusion?

A That was my conclusion, yes.

Q When was that conclusion reached?

A I believe with the increase of the bombing attacks.

Q Never mind the increase of the bombing attacks. Just give me the date. When was it reached?

A The end of '41, beginning of '42.

Q All right. Now there are two other short questions. You said that you told the Fuehrer that you would not act as a Trojan horse, is that right?

A Yes. Yes, of course.

Q Well, had he suggested to you that you should act as a Trojan horse?

A No, not that, but I was fully aware of my difficult position. It was completely obvious to me that I could be misused for such purpose; that behind my back, behind my ministerial post, a situation could be prepared so that Austria would be overrun.

Q Well, you used that expression after you had been talking to the Fuehrer for some time, did you?

A In the course of the discussion, but the thought itself I had had previously. But I avoided that.

Q You had had this thought for some time?

H0155-0067

A Yes.

Q Ever since you had gotten into this Austrian matter actively you had had the thought I suppose?

A The possibility of a difference of opinion about this situation, that possibility was quite clear to me.

Q That your actions might be misconstrued?

A First of all; and secondly, that the fact of my activity could be exploited in a way that I did not intend.

Q Of course. Well, you represented both sides at the same time and that was always a difficult position, was it not?

A Yes, that is quite correct.

Q Well now, let's take up this matter of declaring forfeited property of enemies of the state. You made those declarations I presume, did you not, as Commissioner?

A Yes.

Q And was that made under a decree of the Fuehrer giving you authority to do that?

A That was a basic practice which was current in the Reich and if I did —

Q Now wait a minute. I didn't ask you about the practice. It was made up under a decree, was it not? That practice was under a decree?

A Yes.

Q And that decree applied to all occupied countries, did it not?

A I don't think so. This decree I announced in the Netherlands myself; the measures in the Netherlands came about on the basis of my directive.

Q I understand that. I don't want to get you confused. Your action was taken under a decree of the Fuehrer, was it not, giving you that authority; is that right?

A On the basis of a directive.

Q Of a directive of the Fuehrer, right?

A Yes.

Q Is that directive in evidence? Has it been put in evidence?

A I don't think so.

H0155-0068

Q All right. Now tell us what was in it. What was in that directive?

A It was a rather general directive that the property of persons who were enemies of the Reich was to be confiscated. Even in Austria I issued a decree similar to this. The first one was issued in the Reich itself That was the model.

Q Now, you were the person in the Netherlands who had complete discretion to make the determination of who was an enemy of the Reich, did you not? That was your decision under the decree?

A No, that was a matter which the police and the courts had to determine.

Q I see.

A I had only influence.

Q Well, the police didn't have to go to the courts to get that determination surely, did they?

A No. Either the police directly made a decision like that or the people were put at the disposal of the court and the court sentenced the people on the basis of that, and then on the basis of that judgment the confiscations were made.

Q And the property of the Free Masons was confiscated under that decree. What other property, of what other groups, was confiscated in the Netherlands under that directive of the Fuehrer? I don't mean individuals; I mean groups?

A A the moment I can't think of any others, although there were a few other groups.

Q But, in effect, see if I state the practice correctly. The police would decide that an individual or group of individuals, on account of their words or their actions, were enemies of the Reich, and then their property would be confiscated; is that right?

A Yes. And the decisive factor was Heydrich.

Q The decisive factor was Heydrich?

A And the Netherlands agency carried through his decisions.

Q And you carried through Heydrich's decisions; right?

A Yes, I carried through Heydrich's decisions when it came to

H0155-0069

to confiscation of furtunes. and the Bibelforschers, the Bible Students belonged to that group.

Q Oh, the Bible Students bellnged to the group, too?

A Yes.

Q And the property of the Bible Students was confiscated also, since they were evenies of the Reich?

A They probably didn't have very much, but what they had was confiscated because of their attitude, that they refused to serve in the war effort.

Q They refused -- let me get this straight. This is interesting. The Bible Students refused to fight or to serve in the German war effort and therefore their property was confiscated. Is that right?

A Not quite, not quite. The Bible Students in Germany refused to serve in the German Army. First of all they were prohibited and then this prohibition was expanded for all other regions.

Q Wait a minute. I am not talking about that. I am talking about the Netherlands. Was that true in the Netherlands?

A Yes; but this group was not prohibited in the Netherlands because they refused to serve in the German Army but rather, they were prohibited on general principles. We were against this group.

Q Oh, I see, on general principles. As pacifists, you were against them so you confiscated their property; right?

A Yes.

THE PRESIDENT: Will you return the defendant to the dock?

EDMUND GLAISE HORSTENAU, A witness, took the stand and testified as follows:

BY THE PRESIDENT:

Q Will you state your full name, please.

A Edmund Glaise Horstenau.

Q Will you repeat this oath after me:

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withold and add nothing.

(The witness repeated the oath).

THE PRESIDENT: You may sit down.

DIRECT EXAMINATION

BY DR. STEINBAUER (Counsel for the defendant Seyss-Inquart):

Q Witness, what position did you have in the Austrian Hungarian monarchy?

A I was born in 1882 in Braunau in upper Austria. I came of an officer's family of French descent. In 1918 I was a Major in the Austrian Army, and in the Austrian headquarters I was an expert on politics and the press.

Q What position did you have then in the Austrian Republic?

A After the collapse of 1918 --

THE PRESIDENT (Interposing): Witness, will you kindly pause after the question has been asked you. Don't answer it absolutely immediately. Otherwise, it gives the interpreters no opportunity.

BY DR. STEINBAUER:

Q What position did you have in the Austrian Republic?

A After the overthrow of 1918, I was in civilian service, Director of Archives at the University, a historian and author. Among other things, I was the author of a basic work about the collapse of old Austria, a book --

Q (Interposing) Witness, I am sorry to interrupt you, but we want only your public positions. I am interested in knowing about them only.

What public positions did you have?

A Director of Archives. Then, I was minister in the Cabinet of Schuschnigg, guarantor of the July agreement and then during the March days of 1938, I was in the Cabinet of Seyss-Inquart.

In November 1939, I voluntarily entered the German Army, first as a grave registration inspector, and from 1941 on, became a military diplomat and was on duty at Zagreb. However, I had no command at the front. During September 1944

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I was dismissed from my post in Zagreb because, being an old Austrian, I acted against the official politics and was one of the basic opponents of Ustacha. Another reason was that I was supposed to have called the head of the state who was elected by us, by the name of Ante Pavelic, a"criminal object".

Q General, I shall put a few brief questions to you, and it is quite sufficient if you just answer the question. The Tribunal does not want to know very much about the Anschluss, but rather how it came about, and therefore I shall have to ask you briefly as to the July Putsch of 1934. Were you in any way connected with Councillor Schuschnigg?

A Yes.

Q What was the economic situation that obtained then?

A The economic situation which obtained then may be characterized through the average figure of unemployment. Out of 6 million inhabitants, 400,000 were unemployed, and that means, with their families more than a million were in the misery of unemployment.

Q What possibilities were there regarding the expansion of the economic area?

A In this connection I can say openly and immediately that the possibilities always received no as an answer. When Austria wanted the Anschluss, the answer was no. If Austria wanted to call the Habsburgs back, the answer was no. If Austria wanted to enter a German customs union in order to expand her economic area, the answer was no. When like Briand spoke of a Danube Federation. We and our neighbors received only cold shoulders. That is the Austrian tragedy.

Q Did a party arrive which considered the Anschluss to be the chief problem, and what were the means of this party?

A In the year 1918, the spearhead of this Anschluss was the National Democratic Party led by Otto Bauer, who, the year previously, had considered the Anschluss to be the only possible thing for the Austrian proletariat. Later the National Socialist Party crowded to the front, but that was at the end of the '2o's, and the party was unified and subordinated itself to the leadership of Hitler.

Q Who was the then leader of the NSDAP in Austria?

H0155-0072

A. The leaders themselves changed frequently. Hitler, however, in the person of -- I can't think of his name. Who was this man? In 1933 it was Dr. Habicht.

Q. And after him, is it correct that it was Captain Leopold?

A. After him, Captain Leopold rose to the leadership of the party.

Q. And how did the Austrian National Socialists stand with respect to Hitler?

A. They said they were obligated to obedience and loyalty.

Q. We know about the famous agreement of the 11th of June of 1936. After this agreement, you met Seyss-Inquart. What did he tell you about his political objectives?

A. I met Seyss-Inquart shortly before this agreement. I do not remember exactly what he told me about his political objectives at that time. In general, it coincided with that which he later set up as his political objective?

Q. And what was that briefly?

A. The party, not as an organization, but only as the bearer of ideas, was to be incorporated into the Dollfuss regime. These men were to act in the government.

Q. Did you yourself deal with the Fuehrer Hitler, or did you talk with him?

A. Apart from the March days of 1938, I had three opportunities to speak with Adolf Hitler.

Q. When did Seyss-Inquart enter the government?

A. Seyss-Inquart entered the government the 12th of February 1938.

Q. Did he visit Adolf Hitler?

A. As far as I can remember, he visited Adolf Hitler on the 17th of February.

Q. Did he tell you about his visit with Hitler? Did he tell Schuschnigg and the other members of the cabinet what had taken place?

A. Certainly he told Schuschnigg and he told me as well.

Q. Did he collaborate in the planned plebescite which was to take place on the 13th of March 1938?

H0155 – 0073

A. At that time, without knowing about the plebescite, I left on the 6th of the month to be gone for two weeks. Therefore, I cannot give you a reliable answer to this question.

Q. But do you know whether this plebescite had been decided upon in the Ministerial Council with the consent of Seyss-Inquart? Did he tell you about that subsequently?

A. To my knowledge, the plebescite was not a matter which concerned the Ministerial Council.

Q. Were the National Socialists in agreement? Did they agree to the plebescite?

A. As far as I found out on my return from my leave, certainly not.

Q. Now, it was know or became known that Schuschnigg wanted to have a plebescite. Where were you and what did you witness or experience at that time?

A. On the 6th of March, as I have already said, I went to Stuttgart on leave, something I had planned for a long time. I gave a lecture, and the subject of my speech was --

Q. We are interested only in the facts.

A. Then I undertook a private visit to Landau so that I could visit friends, my French friends, and there Buerckel, whom I had told nothing about my arrival, visited me. While with Buerckel I heard over the radio the speech made by Schuschnigg at Innsbruck. Immediately it was obvious to me that the scheduled plebescite would bring about certain grave counter-measures on the part of Hitler, and I decided to go to Vienna at once, to fly back, in fact.

Buerckel was to have arranged this. However, I called over the phone and talked to the Reichschancellery and Hitler expressed the wish that I should come to Berlin. To the American interrogator I gave the reasons for complying with his request, and subsequently here I found out why Hitler had called me to Berlin. I heard from the words of an absolutely authentic witness that he did not want me to return to Austria. He knew that I was an enemy of all solutions by force.

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During the night of the 9th to the 10th, I arrived at Hitler's and entered a discussion which lasted for two and a half hours, a speech which assumed no concrete proportions. He arrived at no concrete decision, and told me that during the course of the day, at 11 in the morning, to be exact, he would have me called in. In fact, he had me called at 8 in the evening in order to give me the draft of a resignation for Seyss-Inquart to offer to Schuschnigg and the notes for a radio speech. He declared that he could not bring these notes to Austria himself, and he wanted it to be taken care of in the regular way by courier.

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Later on, from the office of Reichsmarshal Goering, I received a draft. There was a telegram contained therein, containing a second request to Hitler asking for the marching in of the German troops. And I should like to say, from the beginning, I knew the third draft had no actual significance. These were my expressions on the 11th in Berlin.

Q. Then you flew to Vienna and met Syess-Inquart. What did you discuss wit him ? What did you do in the morning of the 11th of March ?

A. Seyss-Inquart met me at the airport. I advised him personally about what had taken place in Berlin, and I told him about the grave doubts and concern which I had, and made it entirely clear to him. Together, Seyss-Inquart and I, at 11,00 in the morning, that is briefly after my arrival went to Schuschnigg. Before Schuschnigg -- certain inner-political problems had arrived and I did not know about these things because I had been absent - Seyss-Inquart placed these questions and after Schuschnigg had a fit of weepi I told him the news and pointed out to him that there might be a possibility of a world war and implored him to give in and to rescind the request for a plebescite which was scheduled for Sunday.

Q. Did you and Syess-Inquart offer to resign ?

A. I cannot recall whether we did that orally. This discussion was rather brief, but afterwards, about 1,00 o'clock in the afternoon, we offered to resign.

At this time, there was another decree on the part of Hitler that a decree of the National Socialist leader, Klausner, was necessary for already, on Thursday evening, I had made my decision in front of Buerckel that in connection with the plebescite, I would go to the Minister and ask him to resign so that more tragedies could be prevented.

Q. And how did Schuschnigg act to this offer in order to postpone the plebiscite ?

A. Schuschnigg at first was rather reserved, but at about 2,00 in the afternoon, Guido Schmidt and Zernatto, I do not have to tell you who these gentlemen are, decided to establish a modus proventi. with Seyss-Inquart. I remember I left since my mission had been accepted and completed on the 12th of February.

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Q. And what did Seyss-Inquart do in the afternoon ?

A. Certainly after this discussion, which led to no result, Schuschnigg still hesitated. But finally, he declared that he would indefinitely postpone the plebiscite which had been set for Sunday. I believe that the worst of the crisis had passed.

A short period thereafter, Seyss-Inquart was called to the telephone, and returned visibly agitated and excited saying that he had been advised fr Berlin that Hitler would not work any longer with Schuschnigg, and that Seyss-Inquart was to succeed in the position of Chancellor. Seyss-Inquart invited me to go with him to Schuschnigg, and I turned this down for certain reasons. Seyss-Inquart went in alone, and returned after a brief period of time and we had a discussion -- a discussion which seemed of importance to me. He was confident of the fact of receiving the Chancellorship, and he sai to me, almost with an undertone of regret,

"Now we will just have to take in the Nazis after all, and we shall work together with the Catholics and others who are of similar trends. We will establish an organization together, over which I shall reign and govern However, I demand of Hitler, that as far as internal politics is concerned I will demand an agreement of 5 years silence."

Q. And of course, Hitler did not react to that. He marched into Austria and you were confronted with a law and as Vice-Chancellor, you signed this law ?

A. Yes, I was a co-signer of this law. I entered into the Government and I counter-signed this law, for three reasons.

First, under the impression that Austria was completely alone in the world, and that no one was doing anything or lifting a finger in our behalf.

Point 2, and I must say something here which has been said in the Southern German press, I entered under the impression of the unheard of and fantastic street demonstrations that were taking place. You can call this mass psychology, but this mass psychology was present and it was an unheard of demonstration between people and,

Third, when, on the Ballhaus Platz, where I did not participate in the origination of this rule, on the night that I received this law in hand the German Panzer Division was rolling in. The occupation of the country by Adolf Hitler was nearing its completion and to him it meant, "Now we shall deserve a break. This is the last job." And if anyone tried to force or prevent it, it would not have been possible.

Of course, today it is very easy to say about my home country that it should have committed suicide, rather than be afraid of death.

DR. STEINBAUER: This is quite sufficient, and Mr. President, I have no further questions to this witness.

BY DR. KUBUSCHOK (Counsel for Von Papen) :

Q. The July agreement, did it result through pressure from Germany or on mutual wish and mutual interest ?

A. On the basis of mutual wish it was concluded, and as a result of mutu interest.

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Q And then later, did you have complete confidence in Schusnigg and he in you?

A Up intil the winter of 1937-1938, we had a complete relationship of confidence to Schusnigg.

Q Don't you know anything about the intention of Mr. Von Papen to the effect of the removing of Chancellor Schusnigg?

A Never did I have the slightest hint as to that effect

Q What was the so-called Hilfsfond?

A The Hilfsfond was -- this is not to be a criticism -- but this was a fund which was established for the help of National Socialist who had been arrested.

Q Did Schusnigg and the Government have knowledge of this fund?

A Both of them knew about this and they knew of Langoth as well.

Q What was the NSDAP and Leopold, and what was their connection to Mr. Von Papen?

A. The NSDAP and Leopold were completely adverse to Von Papen, first of all because he was a Catholic, and they distrusted him for certain reasons and in certain ways.

DR. KUBUSCHOK: Thank you very much.

THE PRESIDENT: Does the Prosecution wish to cross examine?

CROSS EXAMINATION

BY MR. DODD:

Q Did you know a man named General Muff?

A Yes, very well indeed.

Q You were in the habit of telling him everything that went on in the Ministerial Consulate of Austria, were you not?

A No.

Q Do you know Stephen Tauschitz, the Austrian Ambassador to Germany?

A Not him either. We spoke together perhaps, but I did not let myself be used as an informer.

Q Then what did you think you were being brought to Berlin for by Buerckel from Stuttgart?

A I cannot quite follow you, I am sorry.

Q What did you understand was the purpose of your trip, when you were

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being brought from Stuttgart to Berlin in 1938, when Hitler wanted to see you?

A I did not go from Stuttgart, but rather from the Pfalz. Hitler had had me advised to come at all costs. I considered this matter and accepted, for at all costs, I wanted to find out what this was all about.

Q I wanted to know what you thought was the purpose of your trip when you left, from wherever it was that you left, to go to Berlin. That's all.

A My intention was to comply with Hitler's invitation adn to see just what was taking place in Berlin.

Q You told the Tribunal that you were interested only in a peaceful solution of the question. Surely, when you got the false telegram and the draft of the radio speech for Seyss-Inquart, you certainly didn't think you were proceeding in a peaceful manner insofar as Austria was concerned, were you?

A From these three things, I had the absolute impression that if Schusnigg were to recall and not hold the plebiscite, then a peaceful solution would still be possible.

Q And what do you suppose you were going to do with the false telegra which asked Hitler for a warning. You knew that this was a complete fraud, an obvious fraud. Why did you consent to carry this back to Austria?

A I did not carry it along and there was a difference of opinion between myself and Fieldmarshal Goering. I did not take it along. It was given to a courier.

Q You told us, we have your notes here, in which you said you did carry it along.

A No, never did I say that. It would be against reality and truth. I never put down, in a note, or say that I took any of these three things along personally, but I emphasized that the courier did that, and I should like to call your attention to the fact that according to the agreement, Seyss-Inquart had the right to deal with the Reich agency in the Reich.

Q Well, in any event, you knew that the telegram was a falsehood didn't you? Whether you carried it or Globocnik did, it wasn't true, was it?

A I beg your pardon, I had nothing whatever to do with this telegram and later on, I asked Seyss-Inquart whether this telegram had been sent off and he said no, it had never been sent. I have already said that all three

H0155-0080

documents were not used here in Austria.

Q Certainly, they were not given to you by Hitler to throw into the waste basket, and when you consented to carry them, you did not know that they were going to be utilized did you?

A That was the task of Seyss-Inquart because according to the Berchestagen agreement.

THE PRESIDENT: Witness, will you try to answer the question instead of answering something else.

BY MR. DODD:

Q Well, I am not going to press it any further. You seem to think that you had some other reasons, but I don't want to press it any further.

A No, I would be very grateful if I could follow. I do not quite follow it and I don't understand the point of your question.

Q Well, if you don't understand it, I do not think there's any point in pressing it.

A I should be very grateful if you would.

Q What I suggested in my question was that you, at l east, knew about this false telegram which was drafted either by Hitler or by Goering. You were then a Minister without Portfolio of the Austrian Government. You knew it was a complete falsehood and yet you were willing to go back to Austria, knowing that this telegram had been arranged, and that it had been sent by courier.

A The telegram had lost any and all significance through the fact that Schusnigg agreed not to hold the plebiscite, and I told Schusnigg that I was referring it to Seyss-Inquart to say anything that was to be said if Hitler would march in.

H0155 - 0081

Q All right. That is not what I am talking about, but I am not going on with it.

Do you remember telling us at the time Goering was talking with Seyss-Inquart on the telephone, you found out that the defendant von Papen and Fritz Riedemann were sitting beside Goering in Berlin?

A I am sorry. I only heard about that after the collapse in 1945.

Q What I want ti know is, how di you find that out?

A I found out from Riedmann. with whom I just happened to be together.

Q All right. Now, you know defendant Von Papen once wrote a letter to Hitler and he said that you were a willing collaborator with him with respect to the possibility of union or Anschluss with Germany. and that was away back in 1936. Do you know about that? It is in evidence in this case, US 67, Document 2246-PS. Were you a willing collaborator with von Papen?

A I was a willing collaborator for the normalization of the conflicts arising out of the situation, but I am not familiar with this document.

MR. DODD: I have no more questions.

THE PRESIDENT: Do you want to re-examine, Dr. Steinbauer?

DR. STEINBAUER: No, sir.

THE PRESIDENT: The witness can retire.

THE PRESIDENT: We will adjourn now.

(A recess was taken.)

FRIEDRICH RAINER, a witness, took the stand and tesified as follows:

BY THE PRESIDENT:

Q Will you state your full name, please?

A Dr. Friedrich Rainer.

Q Will you repeat this oath after me: I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withold and add nothing.

(The witness repeated the oath.)

THE PRESIDENT: You may sit down.

DIRECT EXAMINATION

BY DR. STEINBAUER:

Q What functions did you have and how long did you have them, in the NSDAP?

A I have been a member of the NSDAP since 10 October 1930. Until 1934 I

carried out no functions. Afterwards Gauleiter Klausner of Corinthia called me to the Gauleiter's office. Beginning in 1936 I worked in the county offices. County Director Leopold in the autumn of 1936 relieved me of my position because there were differences of opinion between us. In February 1938 Klausner appointed me his political adviser and collaborator, after I had been called to the County Command Office again. In May 1938 the Fuehrer appointed me Gauleiter of Salzburg. On 1 December 1941 I was transferred to Corinthia. Those were my political functi

Q You were Gauleiter of Corinthia in the end, therefore?

A Yes.

Q And through years of work in the NSDAP, you had a chance to get to know it well?

A Yes, I know the conditions well since the Anschluss.

Q Then when did you come to know Seyss-Inquart?

A The first time that I met Seyss-Inquart was in August 1935. We had a conversation which lasted only a few minutes. A few days later I was arrested, and for six and a half months I was in the custody of the Austrian police. After my release in approximately April or May 1936 I met Seyss-Inquart again in Vienna and remained in contact with him after that.

Q Was he a member of the Party?

A During the time that the Party was prohibited, Seyss-Inquart was not a member of the NSDAP. He was a member of Steirischer Home Protection Organization. That organization was, I think, in 1933, and by agreement between their leaders with Habicht, a part was taken over as part of the Austrian NSDAP. After the Anschluss that transfer was not recognized by the Reich Treasurer, Dr. Schwartz, and the members of the Home Protection Organization, among them I believe Dr. Seyss-Inquart, had to apply for membership again.

Q So your statement in that famous Reiner letter--I shall call it the Reiner letter henceforth--is incorrect, is it?

A At that time I did not know that the admission in its original form had not been recognized by the Reich Treasurer.

Q So that we can say you knew Seyss-Inquart, you had talked to him quite frequently, and surely he would have told you his ideas regarding the Anschluss.

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A Yes.

Q What were these ideas? Please be very brief.

A The Anschluss, at that time, was not the subject matter of our discussion. The idea of the Anschluss was a point in the program of all Austrian parties; it remained the ideal or the target for all of us. In this case, however, what we were concerned with was that the Austrian State should once again steer a course towards Germany and that the interior conditions should be peaceful.

The difficulty in this connection was that the arrangement made by Dollfuss and Schuschnigg excluded conditions of the Constitution, and the State, based thereon, was to be a system of only one party. It was particularly difficult, therefore, on the part of the opposition of the National Wing, to participate in the work and to make that legal.

That task, according to Seyss-Inquart's conception and my own, was to be carried out without further bloodshed and on the basis of a peaceful method. If there was sufficient good will and if the radicals could be gotten over to our side, such a way seemed practical.

Q There was an agreement on the 11th of July, 1936?

A Yes.

Q Then you, at that time, went to see Adolf Hitler to clarify his attitude towards that party. What did Adolf Hitler have to say at the time?

A A few days after the 11th of July, 1936, I went to Berchtesgaden, where I was called; and on the 16th or 17th of July I visited Adolf Hitler.

THE PRESIDENT: I think you can go a little faster than you are going, witness.

A (continuing) The Fuehrer made a very serious statement during that conference, and he demanded, in very severe words, that the Austrian National Socialists should respect the agreement of the 11th of July under all circumstances. He criticized the previous methods, and he used the expression that they had been heroic, but stupid. He pointed out that the continuation of such methods would lead to continuous foreign political difficulties.

He demanded that the National Socialists in Austria should use the existing political possibilities. Upon my specific question regarding the

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Fatherland Front, he said "yes". He assured us that in the near future the general atmosphere would be relieved and that the relationship between these two German states would thus be improved.

Q In principle, therefore, he approved of Seyss-Inquart's policy; is that right?

A The Fuehrer's statement, to me, meant a confirmation of the correctness of the way in which we had decided to go.

Q Was Seyss-Inquart the leader of the Party?

A No; Seyss-Inquart was never the Party Leader.

Q Did he subordinate himself to the leaders of the Austrian NSDAP as you state in your letter?

A Seyss-Inquart was a member of the national opposition group, and in that capacity he recognized the leaders wherever they were.

As to that letter, I want to draw your attention to the fact that he recognized Klausner, because Klausner, after the Berchtesgaden agreement, had replaced Leopold by request of the Fuehrer, since he was steering a quiet, clear, and open course. In the cooperation with him there appeared to be a safeguarding for the Berchtesgaden agreement.

Seyss-Inquart, however, had explicitly stated that in his capacity as trustee for the agreement of Berchtesgaden and Minister in Schuschnigg's government, he considered himself independent from Klausner.

Q Tell me, Mr. Witness, after the understanding of the 12th of February, 1938, did you, during a railway journey, meet Seyss-Inquart, who was coming back from his visit to the Fuehrer?

A Yes.

Q What did he tell you about his conference with the Fuehrer?

A Seyss-Inquart returned in a sleeper, and we sat together in his compartment. He had a piece of paper -- I think it was an envelope -- and on that there were notes. I remember that he described the formalities which had taken place at the beginning by saying that he had come in his capacity as an Austrian Minister and that he wanted to deal with the Constitution, and that he considered himself responsible to the President and the Chancellor of Austria. He said that he was greeting, in Adolf Hitler, the leader of all

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Germans.

Afterwards he told me in detail about points of that conference, not all of which I can now remember. My total impression was that the discussion had a favorable outcome, and I recognized that the conference had been conducted with full loyalty to Chancellor Schuschnigg. As far as I can remember today, the Anschluss as such had not been dealt with at all.

Q Do you remember that he told you that he had stated to Hitler that he wasSchuschnigg's living guarantor, and that he was not the driver of a Trojan horse?

A I don't wish to confirm just those words, that those were the words he used literally. The expression which Dr. Seyss particularly used was that he wasnot a Trojan horse leader. Furthermore, I remember that he had used the expression frequently that he was the living guarantor for adhering to the agreement of Berchtesgaden.

Q Did he also say that he refused to have a cultural fight?

A I think I can remember that. At any rate, that washis point of view, and I certainly expected that he would talk to the Fuehrer about that.

Q Did the Fuehrer agree to these proposals?

A I had the impression that Adolf Hitler wasin full agreement with the suggestions from Dr. Seyss-Inquart.

Q Did Seyss-Inquart tell Schuschnigg that?

A That I must assume. At any rate, he did state that that was his intention.

Q Did he tellthe Austrian National Socialiststhe same thing?

A Yes, because that wasparticularly necessary. During a leader conference Seyss-Inquart made a speech -- and this was at the beginning of March. He pointed out that a revolutionary course and measures undesirable to the radical followers -- namely, the dissolution of the legal organizations - had been specifically demanded by Adolf Hitler.

I think I can also remember that during the large demonstrations at Linz, and on the occasion of the demonstrations at Graz, he referred to that particularly. The visit to Adolf Hitler in Berlin gave him the necessary legitimate background in the eyes of the National Socialists.

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Q. In this Rainer letter of yours you wrote that Seyss-Inquart had been informed of preparations for revolutionary steps.

A. May I ask you, Dr. Steinbauer, which revolutionary steps you mean?

Q. Those of the 10th of March.

A. May I have permission to be a little explicit in this connection? The expression "revolutionary steps" is too far-reaching. The measures which were introduced were mainly these.

After Chancellor Schuschnigg's speech at Innsbruck, Major Klausner was convinced that with this, any basis of an inner political understanding had been destroyed and that this speech would be like a spot in a powder barrel.

While previously we have consultation regarding the circumstances under which the vote might be "yes", it was now, with reference to the attitude of the masses, quite impossible. A clear-cut decision regarding the attitude of the National Socialist leaders had to be brought about. Still, during the night, the new Gualeiters were given their first news, according to which the Party was not agreeable to the proposed plebescite, and that therefore the rol would be to refrain from voting.

The keenest discipline was demanded, because we feared that the"waves" would soon run very high. On the 10th of March, the long prepared propaganda of Zernatto began, and clashes occurred. We had reports, in fact, to the effe that large groups of the protection unit, forbidden February, were being armed Strictest alert was ordered for the formations therefore, and the formations received orders to take care of the protection of nationals.

Principally, these were the steps ordered on the 10th; and regarding the atmosphere in the provinces, I think I informed Dr. Seyss generally in the afternoon. I probably did not inform him about the individual measures of organizations.

Q. Did he promote that atmosphere?

A. No.

Q. Did he ask people to demonstrate, or did he prevent them?

A. He neither promoted them, nor did he invite people to them. A prevention in that stage was no longer possible.

Q. Then what happened on the morning of the 11th?

A. On the 11th of May, in the forenoon, I was at the office of State Chancellor Jury, where I worked. I no longer know the details of what I was doing. We met Dr. Seyss, Glaise Horstenau, and several others about noon in the office of Dr. Fischboeck. Dr. Seyss-Inquart told us of the outcome of the conference with Dr. Schuschnigg. The result of our consultation was the lett which the ministers and state counsellors wrote to Dr. Schuschnigg, which had a time limit of two o'clock, and demanded the cancellation of that unconstitutional plebescite, and demanded arrangements for a new plebescite, a few weeks later, in accordance with the regulation of the constitution, announcing

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resignations if necessary demands were not met.

Q. Then what happened? Schuschnigg returned the plebescite, did he not, and you knew about that? Or how did you hear?

A. Yes. Schuschnigg postponed the plebescite, but he refused to give a date for a new plebescite, and he gave orders to Dr. Seyss, the Security Minister, to adopt severe measures. That solution was reported to the chancellery in Berlin by telephone in the afternoon, and it was because of the statement from the Reich that that solution, as a half-solution, was not acceptable any more. As far as I know, that started the intervention on the part of the German Reich.

Q. But was not that intervention brought about through Glaise Horstenau? It has been stated that Glaise Horstenau took a letter from Adolf Hitler, or a courier took a letter, from Adolf Hitler to Vienna.

A. It was my view that certain documents which Globocnik was showing me at mid-day, and which had been addressed to the county command offices, had been brought along by Glaise Horstenau, who came back from Berlin that morning. As I heard later, that was supposed to be done by a courrier. An intervention on the part of the Reich was not represented by that, in my opinion.

Q. Were there connections between the Party and the Reich on one side, and the Reich on the other? Did they work hand-in-glove?

A. If you mean, Dr. Steinbauer, "conspiracy" by "working hand-in-glove", then I must say definitely no. But the collaboration which seemed to be in the agreement at Berchtesgaden was, of course, carried out.

Q. Did Klausner give the order that the Party should be free to act and that it was to seize power?

A. Through a specific order from Adolf Hitler, it had become the duty of the Party not to undertake any revolutionary steps. That order had been repeated during the early days of March and transmitted by Hitler. Foreign Minister von Ribbentrop had talked to Hitler, who was already in his airplane -

THE PRESIDENT (Interposing): Dr. Steinbauer, what was the question? Surely, the question was what Klausner did, and the witness did not answer it.

DR. STEINBAUER: Yes.

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BY DR. STEINBAUER:

Q. I have asked you, did Klausner give the order to the Gauleiters to seize power?

A. That order was given by Klausner on the evening of the 11th of March.

Q. Did Seyss-Inquart approve?

A. Seyss-Inquart was not informed of that until sometime later.

Q. But then I shall have to put it to you that Gauleiter Eigruber, from Upper Austria, has stated in an affidavit that he received a telegram in which he was addressed as Landeshauptmann. Do you know anything about that?

A. I know nothing whatever about telegrams, or a telegram. I know that Klausner's order was telephoned through from Seizer Gasse No. 1. That evening Globocnik was also putting through a call from the chancellery. I expect that Eigruber is probably referring to one of these telephone calls.

Q. Is it known to you that Gauleiter of Vienna has told you that he misused the name of Seyss-Inquart for the seizure of power?

A. Globocnik told me that several inquiring had been made to the chancellor's office which were passed on to him over the telephone, and that he did not always state his name in that connection. One special case in connection with Salzburg is, in fact, known to me in detail.

Q. In this Rainer letter, you have also made a statement which mentions some assistance on the 25th of July, 1934, and the prosecution considers that this has a connection with the murder of Chancellor Dollfuss. Will you clarify that for us?

A. That remark goes back to a conversation during which Seyss-Inquart told me that he, after the 25th of July, had been afraid for a few days to be connected with the events of those days, but that after a few days it had turned out that there was no such connection. Consequently he used, or tried to exert, personal influence, and he took over some defense cases.

Q. That is your explanation for the special help? I see.

A. Yes.

Q. Do you know that pressure was exercised on the president, Dr. Miklas,

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pressure on the part of the Austro-National Socialists, so that he would appoint Seyss-Inquart?

A. The negotiations which occupied the entire afternoon and late evening were under a certain amount of pressure, because practically in the whole of Austria the transfer had already been carried out. It was the overthrow of Schuschnigg's cabinet which caused a tremendous avalanche. During the negotiations, that found its expression.

Q. In other words, you mean that visibly there was pressure but not physically upon the person of the president ?

A. No. Of course there is no question of that.

Q. But, then how do you explain that at that time forty SS men marched into the Chancellery building and occupied it ?

A. An occupation by the SS is hardly the right expression. When, towards 8,00 o'clock in the evening, Niklas had again refused to nominate a National Socialist for the chancellor's position, Kepler stated that at 8,00 o'clock -- not as originally proposed -- there would be a march in, and he stated his fear for the safety of the negotiators. In fact, as one said, things in Austria were generally upside down and the situation appeared very unsafe. The building of the chancellor's office was occupied by the police and the guards and was transferred into a state of defense. I informed the county command offices of that situation and I asked them to introduce measures of safeguarding so that wilful acts would not cause tremendous misfortune; but the measures which were introduced caused, as one consequenc that no earlier than 1),00 o'clock that same evening an SS leader reported in civilian clothes, stating that he and his men had been attached to us to protect the negotiators. Seyss-Inquart considered that step unnecessary; but I asked him to consider the facts and be careful, and he allowed these men to pass through the police and guards and they were admitted to the courtyard of the building. There was never any pressure nor were there acts of force. That was merely a measure of safeguarding.

DR. STEINBAUER: I have no further questions, Mr. President.

DR. SERVATIUS: Dr. Servatius, counsel for Sauckel.

BY DR. SERVATIUS:

Q. Mr. Witness, you were Gauleiter of Corinthia. Did you have administrative powers during the war and during the subsequent Italian era ?

A. Yes. In September, 1943, I became the Supreme Commissioner in the operational zone of the Adriatic coastland with my seat in Trieste and I had six provinces under my command.

Q. Did you recruit foreign workers there for work in Germany ?

A. Yes.

Price

Q. In what manner was this done ?

A. It was done through recruiting; that is to say, without employment of any coercion, since for many decades these workers were used to going to work northwards.

Q. These workers were used in your Gau, were they ?

A. The majority were put to work in my Gau, but also in other parts of the Alpine country.

Q. What were their living conditions, the conditions these people in your Gau lived under ?

A. Their living conditions were the general ones, the normal ones.

Q. Where were they accommodated ? In camps ? Did you see any such camps ?

A. They were housed by their employers. Where larger numbers of them appeared they lived in camps which were looked after by the Italian Consulate and the German Labor Front.

Q. Did the D.A.F. look after conditions in practice ?

A. Yes. An agreement made the necessary provisions, an agreement of which I was informed. It was their duty and they went to great pains to carry out that task.

Q. Did you yourself inspect the camps ?

A. Yes. I have inspected camps frequently and I found conditions to be good and orderly. In the case of certain industries, I found that conditions were exceptionally good, for instance --

Q. Can you give us the names of these camps ?

A. The particularly good impression one camp made on me was that attached to some waterworks at Muent; the same applies to Schwabeck,

Q. How did these foreign workers behave at the end of the war ? Was there disquiet?

A. No. Because of the considerable number, considering my small district I was worried about the food supplies, The relation to the population was good because the Carinthian is a kind and agreeable type. I have experienced it myself, that French workers, who had already been collected by the British in camps to be transported away, went back to their farmers, preferring to wait there rather than waiting in the other camps.

Q. Was the National Socialist Party strongly represented in Corinthia ?

A. Yes. There were so many National Socialists in Corinthia that Schuschnigg had said on one occasion that one ought to put a barbed wire around that county and there you would have a concentration camp.

Q. But their relationship to the foreign workers was good ?

A. Yes, naturally.

DR. SERVATIUS: I have no further questions.

CROSS EXAMINATION

BY MR. DODD:

Q. Mr. Witness, when did you come to the conclusion that this defendant, Seyss-Inquart, was not a member of the party as you stated in your letter ? When did you change your mind about that ?

A. I didn't learn until fairly late, after the Anschluss, that he wasn't a member of the party. I can't tell you the year for certain now.

Q. But it was not long after you wrote this report, was it, that you found out that what you had said in here was not exactly so ? That you had misunderstood ?

A. In that report I made several attempts to describe matters in a way favorable to Seyss-Inquart, because I refused to support the prosecutors against Dr. Seyss--

Q. Now that isn't what I asked you. I asked you if it was a fact that you found out soon after you wrote this letter that you were in error in stating that Seyss-Inquart had been a member of the party ? Now you can answer that very directly I think, without any long statement.

A. I don't believe that I noticed it shortly afterwards.

Q. Well, when was it ? That is all we want to know. If at any time, you actually did receive such information, when did you receive it ?

A. That I can no longer say and it didn't appear important to me at the time.

Q. Now when did you change your mind or find that you were in error in saying that Seyss-Inquart knew about and participated in the staged demonstrations or the arrangements for the demonstrations which were to take place in Vienna ? When did you find that that was misinformation or a mistake ?

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A. I am not aware that Dr. Seyss-Inquart participated in demonstrations in Vienna.

Q. Now that isn't what I said. If you misunderstood me, I am sorry. Now turn around and maybe if you will look at me it will help a little. You told the Tribunal, in answer to a question from Dr. Steinbauer, that Seyss-Inquart did not provoke the demonstrations and he could not prevent them at that stage. But what Dr. Steinbauer asked you was if what you said in your letter about his participation in the plans was ture. You know what you say in your letter or your report, don't you ? Do you remember what you said in this report about Seyss-Inquart and his particiaption ?

A. The details of my report are no longer in my memory, but --

Q. Would you like to look at it ?

A. Yes, please.

Q. While you are waiting for it I can clear up some other things here. Now as a matter of fact, you gave us an affidavit in November, swearing that this was true, didn't you ?

A. I have specifically stated in this connection that I was relying on information received from others and that afterwards I had further information showing me that not everything had been correctly represented. I stated that specifically and had it included in the record that I had made. These statements were included in an appendix and added to my affidavit.

Q. Just a minute. On the 15th day of November, 1945, right here in Nurnberg, under oath, you executed this affidavit in which you said that you confirmed the facts of this report and that they were all true to the best of your knowledge and belief. Now what information have you received since the 15th of November and from whom, that warrants you in making statements contrary to this report today before this Tribunal ?

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A I wish to state in this connection that the point of view which I had adopted on the 16th of November is maintained by me today.

Q Well, is this report true or not in its entirety, as you told us it was on the 15th day of November?

A The report must not be taken literally. Partly it is based on statements made by reliable people, and I executed it to the best of my knowledge and ability, based again on the situation existing in July 1939, and it has a certain tendency.

Q Well, you told us it was true in November, didn't you?

A I did not say that specifically --

Q (Interposing) Your affidavit is attached to that document that you have, and that is your signature, isn't it, and you have sworn to the truth of it?

A I made a specific statement in connection with it, and, being careful, I made a short note about it afterwards. The formulation of the affidavit was discussed at length.

Q Now you answer my question. Is that the affidavit that you executed under oath on the 15th of November here in Nurnberg? Yes or no?

A Yes.

Q Now, in there you say that you testify and confirm that, The facts which form the basis of the above mentioned letters and reports are true to the best of my knowledge and belief," And you also say further up that you have read the letters and the report.

Now, is that affidavit true? Were you telling the truth when you said that to us under oath in November?

A That affidavit is correct, but I now demand that the explanations which I gave in connection with it and which were taken down at that time in shorthand, be added to it.

Q Why didn't you ask that there be included in the affidavit anything that you wanted about this report if it wasn't altogether true? You were swearing to it. Did you ask that something be added to it or that it be changed?

A I considered this statement to be a statement of the genuine character of the document which had been submitted to me. The record of my statements contained my attitude towards the contents of these documents, and as a precaution I added a statement that in this case, too, I wished certain reservations to be

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taken down. They were subsequently formulated by one of the gentlmen interrogating me, stating that "to his best knowledge and conscience..." and then he went on to say that all these reservations which I had stated had not been included in accordance with the method to which they were accustomed.

Q You know, are you really serious in telling this to this Tribunal today about this affidavit? Are you really serious about this last statement?

A I am most serious about it.

Q Well now --

A I have nothing to hide.

Q Now maybe we can shed a little more light on the kind of reports that you make. I have another one here that you haven't seen. You made a speech in 1942.

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MR. DODD: This is Document 4005-PS. It becomes USA 890.

BY MR. DODD:

Q You had better have a copy of this in front of you. Do you remember that speech that you made on the 11th of March 1942in Klagenfurt before the Leaders Corps and the bearers of honor insignia and blood orders of the Gau Karinthia, in which you told the whole story of the development of the events of March of 1938? Do you remember the day you made that speech?

A I made such a speech, yes.

Q All right. Now, let's look at it. Were you telling the truth the day you made that speech?

A I represented the events and told their story in such a way that my audience would understand it.

Q Were you telling the truth? That is what I want to know. Were you telling the truth when you made that speech? I didn't ask you if you made it interesting; I asked you if you told the truth.

A I believe I spoke the truth at the time, but I also believe that there were certain things which I didn't know correctly.

Q Now, let's take a look and see what you said in 1942 with reference to this report, PS-812.

Now, if you will turn to -- I think it is page 8 of your text, I am trying to locate for you the sentence that begins, "Only in cooperating with us -- Jury and a number of co-workers of Leopold..." That is on page 2 of the English text, about the middle of the page, the lower third of the page.

Do you find that?

A No. Did you say page 18 of the German text?

Q I said page 8.

A Yes.

Q Do you find that, "Only in cooperation with us -- Jury and a number of co-workers of Leopold and also with Leopold's consent, it was possible to achieve Seyss-Inquart's appointment to the post of State Council, Staatsrat. More and More Seyss turned out to be the clever negotiator."

A Yes.

Q Do you find that?

A Yes, I have it.

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Q "We knew he was the one who would best represent the interests of the movement in the political forefield. He also unconditionally subordinated himself always to Klausner's leadership. He always conducted himself as Klausner's deputy and conscientiously followed Klausner's instructions. With Seyss' appointment to the post of Staatsrat, we found a new possibility to enter into further negotiations. At that time, there were a number of grotesque situations. We were informed on events in the Schuschnigg camp by the political apparatus; our own connection to Ribbentrop, Goering and Himmler we have via Keppler."

Did you say that in your speech as reported there in the text of it, and how do you reconcile that now with what you have told the Tribunal about the report to Buerckel?

A It isn't known to me where that record of the speech originates. I should have to have an opportunity --

Q I'll tell you. It is a captured document that was found down there in the files, so you needn't worry about that. What I want to know is whether or not you now admit that you made this speech and you said these things at the time that you made it.

A I made a speech, but I want to state emphatically that whatever I have said under oath today about that point was true. This is a broad statement designed for the audience of the times, which can't be taken so carefully as something which I say today, conscious of my responsibility.

Q You are not speaking broadly for the benefit of an audience here today, are you?

A Right.

Q Let's turn a page and see what you said about Papen, and about the conference. You go on to say how you got information, how you met in the Ringstrasse, and so on. If you will follow right along now, we won't lose the place.

"Papen had been exressly told to handle preparations for the conference confidentially. In Austria only Schuschnigg, Schmidt and Zernatto knew about it. They believed that on our side only Papen was informed. Papen, too, thought that only he knew about it, but we too were informed and had had conversations with Seyss about the subject."

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That is the Berchtesgaden conference. Now, were you telling the truth when you said this in 1942, or not? Or was that a broad statement for the benefit of the audience?

A I cannot today say whether this document represents my statements of those days correctly.

Q Well, why not? It was in 1942. Don't you remember? Do you mean that you don't know whether you told the truth or not, or you don't know whether you said this or not?

A In those days I spoke before the simple people of Karinthia and I--

Q Did you tell them the truth?

A No, but I speak to people like that differently than I would speak under oath before this Tribunal, having to make concrete statements about concrete points. It seems impossible to me that I should today be able to read individual points of a speech which was made four years ago.

THE PRESIDENT: Did you have an answer? He is not answering your question

MR. DODD: No, sir, he is not.

BY MR. DODD:

Q I asked you whether or not you made these statements on that day, and if you did so, were they true? Now, you can tell us that very simply and we don't need any long answer. You have read it over and you have heard me read it. Now, please give us an answer.

You don't need to read any more. You have read it once and I have read it to you. Was that true and did you say it?

A In the details it is not correct.

Q Well, is it true in any respect? Is it true that Papen was informed and that Seyss-Inquart knew about that conference long before it took place or sometime before it took place? That is what we want to know.

A When, during the winter Olympic games in Garmisch, we

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not --

Q Now, just a minute. You are not answering my question. That is the next sentence which you are reading. I know that is coming and I am going to ask you about the meeting in Garmisch. I am now asking you if what you said about von Papen and Seyss-Inquart is the truth, and that is all I want to know.

A It is correct that on or about that time we had been informed about the intention of having a conference.

Q And that Seyss-Inquart know about it.

Now, let's go on a little bit further and find out about this Garmisch meeting. You were invited down there to the Olympic games, you say, and you had a meeting with Papen and Seyss-Inquart, and theywent through some negotiations, and then you went to Berlin.

Now, I want to move down a little bit. There is a lot of interesting material here. We don't have the time to go into it all just now. You go on down quite a bit, and I want to ask you about what you say you had already prepared.

"We had already prepared the following" -- and you aretalking about Schuschnigg and the impending conference. It is on the back of page 9 of your text, Mr. Witness, and it is on page 5 of the English text, the last paragraph. You say:

"We had already prepared the following:

"The last result of the conversation Seyss communicated to me in a placed in the Kaertnerstrasse. I called the telephone number where Globus was to be reached in Berlin " -- by the way, for the benefit ofthe Tribunal, Globus is Globocnik. He is the same person, isn't he?

A Yes.

Q " -- and told him about the negative result of the conversation. I could speak with Globus entirely freely. We had a secret code for each name, and besides we both spoke a terrible dialect so that not a sould would have understood us. Globus immediately wrote down this report ..." and so on.

"In themeantime, Keppler had gone to Munich by sleeping car."

Then, a sentence or two further down:

"I then forwarded instructions by Party member Muehlmann, who proved

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to be an excellent liaison man to Party and government offices in the Reich. He left for Salzburg on the same train as Schuschnigg. While Schuschnigg had his car taken off at Salzburg and spent the night there and continued by auto to the Obersalzburg, Muehlmann continued on and was in Berchtesgaden. Keppler and he went to the Fuehrer before Schuschnigg and could tell him everything. Schuschnigg arrived in the morning, was received, and lived to see the boundless surprise that the Fuehrer took up the negotiations where they had been broken off without results the day before between Seyss and him. The Fuehrer did not conduct the negotiations as Schuschnigg expected. He went the whole hog. Schuschnigg was finished off that time. The Fuehrer got hold of him, assaulted him, and shouted at him and reproached him for all the dirty tricks Schuschnigg had committed during the years past. Schuschnigg had become a heavy smoker. We had connections even into his bedroom. We know about his way of life. Now he was smoking 50, now 60 cigarettes. Now at the Fuehrer he was not allowed to smoke. Schuschnigg could not smoke even.

"Ribbentrop told me he really pitied Schuschnigg. He only stood at attention before the Fuehrer, had his hands against the seams and all he said was 'Yes, sir!', 'Jawohl'."

Now, what about that? You said all these things in your speech. Were they true when you said them?

Right up to that point, Mr. Witness, you have read it with me. Did you say this or not, and was it true when you said it?

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A The events as I have described them here are more or less correct. Individual expression of mine which I am reading here are not mine. In that point, that document has been supplemented by somebody else. Whether the evidence repeats in it or goes into detail, that is something I cannot say for certain because much of it did not happen in my presence.

Q I just wanted to know if you said it, that's all. Very well, we will go on.

You also told them that Schmidt finally went to Ribbentrop and asked him to give Schuschnigg one cigarette and so they gave him one. Let's go on quite a few pages to a more important matter. It's on page 13.

THE PRESIDENT: Mr. Dodd, will you be able to finish tonight, because we were planning to adjourn at a quarter to.

MR. DODD: Yes, I have only a few more questions and I'll need only two more minutes to finish.

BY MR. DODD:

Q In this connection, you told the assembly about the day that Seyss-Inquart came to this meeting and told you that he had been bound by his word of honor not to speak of what he had heard. You will find it on page 13, it's on page 13 of the English text.... Well, you can find it, I am sure you will take my word if I tell you that it is there, and that it is on page 13 of the English text. But you say, "We asked Seyss: 'Is it true?' Seyss said: 'I am bound not to speak by my word of honor, but we want to act as if it is true' (diplomat that he was). The matter was clear for us."

He let you know, didn't he, that Schuschnigg had told him about the plan. He let you know,didn't he? Please, can't you answer my question?

A The description here deals with my remarks.

Q Just one last question, and I am not going to have any more questions for you.

You also said, "In the night from Thursday, March 10, to Friday, March 11, all Gauleiters were in Vienna waiting for information. National Socialists were attacked, and so on 10 March we issued orders to the SA, and SS, Lukesch and Kaltenbrunner, on our own initiative, to call out beginning Friday, half of our formations for the protection of National Socialists in

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the streets, whereas the best men were to remain armed in their barracks in the event of a civil war. We had to be ready to deal not only with the executive authorities, but also with the red mob."

A With arms and under barracks, that cannot be right. That's no question of barracks anyway, and weapons, we didn't have any.

Q You know that almost everything that you said in this whole speech was included in detail in your report to Buerckel. The truth of the matter is that you, in both instances, passed up the truth, isn't it? That's the truth of the matter. When you made your report to Buerckel, you were reporting what you thought were the facts, and what you know now are stories, and not facts.

A I cannot recogniwe this matter as being authentic.

MR. DOLD: Well, I certainly do not have many more questions.

THE PRESIDENT: We will adjourn now.

(The Tribunal adjourned until 1000 hours, 13 June 1946.)